COMPLETED .376

TD8.2:D56/3/985

A Digest of State Alcohol-Highway Safety Related Legislation

ORIGINAL

IES 759

Third Edition

January 1985

U.S. Department of Transportation
National Highway Traffic Safety Administration

US Department
of Transportation

**National Highway
Traffic Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

TO: Individuals Interested in State Laws Related to Alcohol Use and Highway Safety

We, at the National Highway Traffic Safety Administration (NHTSA), are pleased to send you a copy of the Third Edition of our Digest of State Alcohol-Highway Safety Related Legislation. This edition incorporates recent changes in State drunk driving laws occuring through December 1984. Over 100 major pieces of State legislation have been enacted since the second edition was published and are included in this Digest.

We appreciate the helpful comments and suggestions that we have received from those persons who reviewed the previous editions of the digest. These comments or suggestions have been carefully considered and many of them adopted in the preparation of the this edition. A format change from previous editions has been necessary in order to incorporate the Digest's data into our computerized data base. This will help us to be more responsive to legislative changes and in providing more timely editions of the digest. In addition, it is hoped that this format change will make the document more useful. Again, as with the previous editions, your opinions/comments are welcome and appreciated.

We hope that this Digest will be of assistance to you in any efforts that you might undertake to improve State highway safety laws related to the drunk driver.

Sincerely,

Clayton J. Hall, Chief
Program Development Division
Office of Alcohol Countermeasures
Traffic Safety Programs

Get it together!
SAFETY BELTS SAVE LIVES

A Digest of State Alcohol-Highway Safety Related Legislation

Third Edition

January 1985

BLANK PAGE

PREFACE

Drunk driving continues to be one of our nation's most serious public health and safety problems. It is, in fact, a national epidemic which transcends State boundaries and from which no one is immune. In excess of 50 percent of all drivers killed each year have blood alcohol concentrations (BACs) higher than the legally recognized limit, 0.10 percent. In single vehicle fatal crashes, more than 65 percent of the drivers who died were legally drunk. Over the past decade, the United States has experienced an average of 25,000 deaths per year involving alcohol. Therefore, approximately one quarter of a million persons have been killed in alcohol-related crashes in the past ten (10) years.

Injuries and costs to society are equally staggering. Over 650,000 persons per year are injured in alcohol-related crashes. Estimates of the costs of these crashes vary widely. However, it has been estimated that such crashes cost the nation over $24 billion per year in damages, hospital costs, lost work, etc., in addition to the needless pain and suffering. The toll is especially tragic for our young. On the average, 14 teenagers are killed and 360 injured every day. The leading cause of death for the 15-to-24-year age group is drunk driving.

Because of increased national awareness, much activity concerning alcohol legislation has occurred and is occurring. This digest is an attempt to summarize the existing legislation as of January 1, 1985.

BLANK PAGE

CONTENTS

PREFACE....................iii

INTRODUCTION....................1-1

ANALYSIS BY STATE - HIGH INTEREST LEGISLATION....................2-1

STATE LAW SUMMARY ANALYSIS....................3-1

- Alabama....................3-1
- Alaska....................3-7
- Arizona....................3-14
- Arkansas....................3-21
- California....................3-28
- Colorado....................3-35
- Connecticut....................3-42
- Delaware....................3-48
- District of Columbia....................3-55
- Florida....................3-61
- Georgia....................3-68
- Hawaii....................3-74
- Idaho....................3-81
- Illinois....................3-88
- Indiana....................3-94
- Iowa....................3-102
- Kansas....................3-109
- Kentucky....................3-115
- Louisiana....................3-122

Maine..3-129

Maryland...3-136

Massachusetts..3-144

Michigan...3-150

Minnesota..3-157

Mississippi..3-163

Missouri...3-170

Montana..3-177

Nebraska...3-184

Nevada...3-191

New Hampshire..3-198

New Jersey...3-204

New Mexico...3-210

New York...3-217

North Carolina...3-224

North Dakota...3-232

Ohio...3-239

Oklahoma...3-245

Oregon...3-252

Pennsylvania...3-259

Puerto Rico..3-266

Rhode Island...3-272

South Carolina...3-279

South Dakota...3-286

Tennessee..3-292

Texas..3-298

Utah...3-304

Vermont..3-311

Virginia...3-318

Washington...3-325

West Virginia..3-333

Wisconsin..3-340

Wyoming..3-348

APPENDIX (ABBREVIATIONS).................................3-355

INTRODUCTION

PURPOSE

This Digest is designed for use by anyone interested in State laws related to alcohol use and highway safety. It provides the reader with the status of such State laws as of January 1, 1985.

ORGANIZATION

The Digest is divided into three main areas: (1) Introduction; (2) High Interest Legislation; and (3) State Law Summary. The Summary is organized by State and then by specific legal topics. The Summary includes code and, where needed, case law citations; these should help individuals conducting additional research in this area of the law. It should be noted that the Summary can be used to facilitate the comparison of State laws in the subject areas.

EXPLANATIONS

The following statements clarify the contents of and/or establish certain presumptions used in the Digest.

1. For each State in the Summary, the section on "Other Tests for BAC Levels which are Authorized by Law" identifies other bodily substances (e.g., blood) which may be tested under the implied consent law. Thus, a driver who refuses to submit to such tests, if legally requested to do so by a law enforcement officer, could be subjected to the same sanctions as those specified for a refusal to submit to a chemical breath test.

2. The sanctions listed for convictions of alcohol related driving offenses (e.g., driving while impaired, driving while intoxicated, illegal *per se*, etc.) are those specified by statute. If a sanction is not *specified by* law (e.g., community service, et al.), it is not listed.

3. The term "mandatory sanction" means either a criminal sanction (e.g., jail, fine or community service) or an administrative licensing action (e.g., license suspension or revocation) which *must* be imposed by either a court or an administrative agency. That is, statutory law specifically requires that such sanction be given; this may be accomplished by denying either the court or the administrative agency the power to either suspend or otherwise prevent the imposition of such sanction.

4. Unless otherwise stated, the sanctions are the same for all alcohol driving offenses (e.g., driving while under the influence, illegal *per se*, et al.).

5. States without vehicle homicide laws treat deaths, which are caused by persons while operating motor vehicles, under their general criminal homicide laws such as manslaughter.

6. For each State in the Summary, in the section on "Driving After License has been Suspended or Revoked for an Alcohol Driving Offense," the general sanctions for operating a vehicle while in a license suspension/revocation status are given in the absence of any specific sanctions dealing with the exact subject of the section.

7. A number of States have adopted the concept of a dram shop law via case law decisions. State courts making such decisions have used a multiplicity of legal theories in their opinions. Citations to major case law decisions are give in this Digest. Note: Some States have both case law and statutes.

8. The "Open Container" Law section of previous editions has been expanded to include State laws which prohibit the consumption of alcoholic beverages in motor vehicles.

LEGISLATIVE SUBJECT AREAS

- Basis for an Alcohol Driving Offense and BAC (Blood Alcohol Content) Level
- Chemical Breath Tests
    - Preliminary
    - Evidential (Implied Consent Law)
- Other Tests for BAC Under the Implied Consent Law
- Sanctions for Refusal to Submit to a Chemical Test Under an Implied Consent Law
- Adjudication of Alcohol Driving Offenses
    - Mandatory Adjudication
    - Anti-Plea Bargaining Statutes
    - Pre-Sentence Investigation
- Sanctions Following a Conviction for an Alcohol Driving Offense
    - Criminal
    - Administrative (Civil: Pre-conviction and Post conviction)
    - Rehabilitation
    - Vehicle Impoundment
- Homicide by Vehicle
- Driving While License Suspended or Revoked Where the Basis was an Alcohol Driving Offense
- Habitual Offender Laws
- BAC Tests Required for Persons Killed as a Result of a Traffic Crash
- Laws Establishing Minimum Ages Concerning the Use of Alcohol Beverages
- Dram Shop Laws and Related Legal Actions
- Laws Concerning Criminal/Administrative Actions Against Employees/Owners of Licensed Liquor Establishments who Sell Alcoholic Beverages to Persons who are under the Legal Drinking Age or who are Intoxicated
- Laws Prohibiting the Possession of Open Containers of Alcoholic Beverages in Motor Vehicles (the Passenger Compartment)
- Laws Prohibiting the Consumption of Alcoholic Beverages in Motor Vehicles

FEEDBACK

We intend, of course, to update this publication periodically. Accordingly, the NHTSA staff would appreciate receiving any comments that you might have concerning improving any future digest's readability or accuracy.

Any comments, corrections or new information should be sent to:

National Highway Traffic Safety Administration
Office of Alcohol Countermeasures - Code NTS-21
400 7th Street, S.W.
Washington, D.C. 20590

Attention: Legislative Resource Center

Telephone: (202) 426-9581

Finally, NHTSA staff hopes that this document will be useful to you. If you are interested in receiving updates to this Digest, please let us know via either telephone or letter.

Accurate as of Januar 1985

ANALYSIS BY STATES -- HIGH-INTEREST LEGISLATION

STATE	PBT Law	Implied Consent Ref Mand Min Lic Action		Administrative Per Se (BAC Level)	Administrative Per Se (Mand Min Licensing Action)			Illegal Per Se (BAC Level)	Presumptive (BAC Level)	In Vehicle		Dram Shop Law	Legal Purch/ Sale for Alc Bev	STATE
		1st Refusal	2nd Refusal		1st Offense	2nd Offense	3rd Offense			Open Container	Anti-Consumption			
AL		S-90 dys	S-1 yr	N	--	--	--	0.10	0.10			Statute	19	AL
AK	X	R-90 dys	R-1 yr	Y-0.10	R-30 dys	R-1 yr	R-10 yrs	0.10	--			Statute	21	AK
AZ		S-12 mos	S-12 mos	N	--	--	--	0.10	0.10		X[11]	Case Law	21	AZ
AR		S-6 mos	S-1 yr	N	--	--	--	0.10	--		X[13]	No	21	AR
CA		S-6 mos	S-1 yr	N	--	--	--	0.10	0.10	X	X	Statute[14]	21	CA
CO	X	R-1 yr	R-1 yr	Y-0.15	R-1 yr	R-1 yr	--	0.15	.05-.10[7]		X	Statute	18/21[15]	CO
CT		S-6 mos	S-1 yr	N	--	--	--	.07-.10[27]	0.10[6]			Statute	20	CT
DE	X	R-6 mos	R-18 mos	Y[21]	R-3 mos	R-1 yr	R-18 mos	0.10	0.10[6]			No	21	DE
DC		S-12 mos	S-12 mos	Y[22]	--	--	--	0.10	0.05[6]		X	Case Law	18/21[16]	DC
FL	X	--	S-1 yr	N	--	--	--	0.10	0.10			Statute	19	FL
GA		S-6 mos	S-6 mos	N	--	--	--	0.12	0.10			No	19	GA
HI		R-12 mos	R-12 mos	N	--	--	--	0.10	--	X	X	Case Law	18	HI
ID		S-120 dys	S-120 dys	N	--	--	--	0.10	>0.08	X		Case Law	19	ID
IL		--	--	N	--	--	--	0.10	0.10	X		Statute	21	IL
IN	X	S-1 yr	S-1 yr	Y-0.10	S-180 dys[3]	S-180 dys[3]	--	0.10	0.10[6]			Case Law	21	IN
IA	X[1]	R-240 dys[31]	R-360 dys[31]	Y-0.10	--	--	--	0.13	0.10	X	X	Statute	19	IA
KS		--	--	N	--	--	--	--	0.10[6]	X	x	No	18/21[15]	KS
KY	X	--	--	N[21,23]	--	--	--	--	0.10		X	Case Law	21	KY
LA		S-90 dys	S-545 dys	Y-0.10	S-30 dys	S-365 dys	S-365 dys	0.10	0.10			Possible[29]	18	LA
ME		S-90 dys	S-1 yr	Y-0.10	S-45 dys[32]	S-1 yr	--	0.10	--			Statute	20	ME
MD	X	--	--	N	--	--	--	--	(.08, .13[28])[6]	X[10]	X[10]	No	21	MD
MA		S-90 dys	S-90 dys	N	--	--	--	--	0.10		X[11]	Case Law	21	MA
MI	X	--	S-1 yr	N	--	--	--	0.10	.07, .10[7]	X	X	Statute	21	MI
MN	X	--	--	Y-0.10	--	--	--	0.10	--	X	X	Statute	19	MN
MS	X	S-90 dys[2]	S-90 dys[2]	Y-0.10[12]	--	--	--	0.10	--			Case Law	18/21[26]	MS
MO		--	R-1 yr	Y-0.13	R-1 yr[33]	R-1 yr[33]	R-1 yr[33]	0.10	0.10[6]			Case Law	21	MO
MT		S-90 dys	R-1 yr	N	--	--	--	0.10	0.10	X	X	No	19	MT
NE	X	R-60 dys	R-6 mos	N	--	--	--	0.10	--		X	No	21	NE
NV	X	R-1 yr	R-3 yrs	Y-0.10	--	--	--	0.10	0.10		X[11]	No	21	NV
NH	X	R-90 dys	R-1 yr	N	--	--	--	0.10	0.10[6]		X[13]	Possible[29]	20	NH
NJ		R-6 mos	R-2 yrs	N	--	--	--	0.10	--		X	Case Law	21	NJ
NM		R-1 yr	R-1 yr	Y-0.10	R-90 dys[5]	R-1 yr[5]	R-1 yr	0.10	0.10			Case Law[30]	21	NM
NY	X	R-6 mos	R-1 yr	N[23]	--	--	--	0.10	.08-.10[6]		X	Statute	19	NY
NC	X	R-6 mos	R-12 mos	Y-0.10[12]	--	R-10 dys	--	0.10	--	X[10]	X[10,11]	Statute[9]	19/21[17]	NC
ND	X	R-1 yr	R-1 yr	Y-0.10	S-90 dys	S-1 yr	S-1 yr	0.10	--	X	X	Statute	21	ND
OH		--	--	N[23]	--	--	--	0.10	--		X	Statute	19/21[18]	OH
OK		--	--	Y-0.10	--	--	--	0.10	0.10[6]	X	X	No	21	OK
OR		S-90 dys	S-1 yr	Y-0.08	--	S-90 dys	S-90 dys	0.08	--	X	X	Statute	21	OR
PA	X	S-12 mos	S-12 mos	N	--	--	--	0.10	0.10		X[11]	Statute	21	PA
PR	X	--	--	N	--	--	--	--	0.10			No	18	PR
RI	X	S-3 mos	S-1 yr	N	--	--	--	0.10	--		X[11]	Statute	21	RI
SC		S-90 dys	S-90 dys	N	--	--	--	--	0.10	X	X[13]	No	20/21[19]	SC
SD	X	--	--	N	--	--	--	0.10	0.10	X		Case Law	19/21[15]	SD
TN		--	--	N	--	--	--	--	0.10			Case Law	21	TN
TX		--	--	N	--	--	--	0.10	--			No	19	TX
UT		R-1 yr	R-1 yr	Y-0.08	S-90 dys	S-120 dys	S-120 dys	0.08	--	X	X	Statute	21	UT
VT	X	S-6 mos	S-18 mos	N	--	--	--	0.10	0.10		X[11]	Statute	18	VT
VA	X	S-6 mos	S-1 yr	N	--	--	--	0.15	0.10		X[13]	No	19/21[18]	VA

4

ANALYSIS BY STATES -- HIGH-INTEREST LEGISLATION (continued)

STATE	PBT Law	Implied Consent Ref Implied Consent Ref Mand Min Lic Action		Administrative Per Se (BAC Level)	Administrative Per Se (Mand Min Licensing Action)			Illegal Per Se (BAC Level)	Presumptive (BAC Level)	In Vehicle		Dram Shop Law	Legal Purch/ Sale for Alc Bev	STATE
		1st Refusal	2nd Refusal		1st Offense	2nd Offense	3rd Offense			Open Container	Anti-Consumption			
WA		R-1 yr	R-2 yrs	Y-0.10[4]	S-30 dys[4]	R-1 yr[4]	R-2 yrs[4]	0.10	--	X	X	Case Law[34]	21	WA
WV	X	R-1 yr	R-5 yrs	Y-0.10[24]	R-90 dys	R-5 yrs	R-10 yrs	--	0.10[8]		X	No	19&21[20]	WV
WI	X	--	R-60 dys	N	--	--	--	0.10	--	X	X	Case Law	19	WI
WY		S-30 dys	S-30 dys	Y[25]	--	--	--	--	0.10[6]			Case Law	19	WY
TOTAL	25	S - 21 R - 16	S - 22 R - 19	Admin Per Se - 21	S - 6 R - 6	S - 6 R - 8	S - 4 R - 6	.08 - 2 .10 - 36 .12 - 1 .13 - 1 .15 - 2 .07-.10-1	>.08 - 1 .10 - 21 .10 prima facie - 8 Other - 5	19	33	Case Law - 16 Statute - 20 Possible Case Law - 2	18 - 4 19 - 12 20 - 3 21 - 24 18/21 -4 19/21 -4 20/21 -1	

S = Suspension
R = Revocation

Y = Yes
N = No

---

[1] Applies only when there has been either an injury or death related accident.

[2] License suspension for one (1) year if the driver has a prior DWI offense conviction.

[3] Suspension up to 180 days or until the DWI charges have been disposed of which ever occurs first.

[4] Administrative Per Se law effective January 1, 1986.

[5] Applies to persons 18 years old or above.

[6] BAC level or levels which indicate prima facie evidence.

[7] Lower of the two numbers is driving while impaired (DWI); higher is driving while under the influence (DUI).

[8] This state has both prima facie and presumptive evidence laws with BAC levels of 0.10.

[9] The statute applies specifically to actions of intoxicated minors, but the law does not foreclose developing case law as to other types of dram shop actions.

[10] Limited application.

[11] Applies to drivers only.

[12] Special provisions/procedures.

[13] Possible.

[14] Applies only to actions of intoxicated minors; previous case law as to other types of dram shop actions has been specifically abrogated by legislation.

[15] 18/19 for 3.2% beer; 21 for all other alcoholic beverages.

[16] 18 for beer and light wine (14% alcohol or less); 21 for all other alcoholic beverages.

[17] 19 for beer and unfortified wine; 21 for all other alcoholic beverages.

[18] 19 for beer; 21 for wine and liquor.

[19] 20 for beer and wine; 21 for liquor

[20] 19 for state residents; 21 for out-of-state residents.

[21] Based on probable cause of DWI.

[22] Based on sufficient evidence of DWI.

[23] Discretionary (Pre-DWI criminal adjudication) licensing action by the courts.

[24] Or under the influence of alcohol.

[25] Based on a DWI arrest.

[26] 18 for 4% beer and wine; 21 for all other alcoholic beverages.

[27] Infraction if BAC level is between these limits.

[28] Lower of the two numbers is driving while under the influence; the higher is driving while intoxicated.

[29] Possible case law.

[30] With statutory limitations on the amount of damage awards.

[31] A restricted license may be issued for an implied consent law violation provided the defendant pleads guilty to a subsequent DWI charge.

[32] This suspension is for a traffic infraction.

[33] Applies only to intoxicated offenses; for illegal per se and other admin per se actions a restricted hardship license may be granted provided the defendant has not received such a privilege within the past 5 years.

[34] Applies only to the actions of (1) intoxicated minors and/or (2) adults who have lost their will to stop drinking.

ANALYSIS BY STATES -- HIGH-INTEREST LEGISLATION (continued)

STATE	Fine ($) (Mandatory Minimum)			Imprisonment (Mandatory Minimum)			Community Service In Lieu of Jail			License Sanction (Mandatory Minimum Following a DWI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
AL	--	--	--	--	48 con hrs	60 dys	--	20 dys	--	S-90 dys	R-1 yr	R-3 yrs	AL
AK	--	--	--	72 con hrs	20 con dys	30 con dys	--	--	--	R-30 dys	R-1 yr	R-10 yrs	AK
AZ	$250	$500	--	24 con hrs	60 dys	6 mos	8 hrs	--	--	S-30 dys	R-1 yr	R-3 yrs	AZ
AR	--	--	--	--	--	--	--	--	--	S-90 dys	S-1 yr	S-2 yrs	AR
CA	$390	$375	$390	--	48 hrs	120 dys	--	--	--	--	--	R-3 yrs	CA
CO	--	--	--	--	7 dys	7 dys	48 hrs[11]	60 hrs[11]	60 hrs[11]	--	R-1 yr	R-2 yrs	CO
CT	--	--	--	--	48 con hrs	30 dys	--	--	--	S-1 yr	S-2 yrs	S-3 yrs	CT
DE	--	--	--	--	60 dys	60 dys	--	--	--	R-90 dys	R-6 mos	R-6 mos	DE
DC	--	--	--	--	--	--	--	--	--	R-6 mos	R-1 yr	R-2 yrs	DC
FL	--	--	--	--	10 dys	30 dys	50 hrs[11]	--	--	--	R-5 yrs	R-10 yrs	FL
GA	--	--	--	--	48 hrs	10 dys	--	60 hrs	30 dys	--	S-120 dys	R-5 yrs	GA
HI	$150-1000[1]	--	--	48 hrs[1]	48 con hrs	--	72 hrs[1]	10 dys	--	S-30 dys	S-1 yr	--	HI
ID	--	--	--	--	10 dys	30 dys	--	--	--	--	S-30 dys	S-1 yr	ID
IL	--	--	--	--	48 con hrs	48 con hrs	--	10 dys	10 dys	--	--	--	IL
IN	--	--	--	--	5 dys[5]	5 dys[20]	--	10 dys	10 dys	S-30 dys	S-1 yr	S-1 yr	IN
IA	$750[16]	$750	$750	7 dys[17]	7 dys	--	--	--	--	--	--	--	IA
KS	--	--	--	48 hrs	5 dys	90 dys	100 hrs	--	--	--	S-1 yr[14]	R-1 yr	KS
KY	--	--	--	--	7 dys	30 dys	--	--	--	R-30 dys	R-12 mos	R-24 mos	KY
LA	--	--	--	2 dys	15 dys	6 mos	4 dys	30 dys	--	--	R-12 mos	R-12 mos	LA
ME	$250(350)[2]	$350	$350	48 con hrs[2]	48 con hrs	48 con hrs	--	--	--	S-45 dys[15]	S-1 yr	S-1 yr	ME
MD	--	--	--	--	--	--	--	--	--	--	--	--	MD
MA	--	--	--	--	7 dys[6]	60 dys	--	--	--	S-30 dys	S-1 yr	S-2 yrs	MA
MI	--	--	--	--	--	--	--	--	--	--	S-60 dys	R-1 yr	MI
MN	--	--	--	--	--	--	--	--	--	--	--	--	MN
MS	$200	$400	$500	--	--	--	--	--	--	S-45 dys	S-1 yr	S-1 yr	MS
MO	--	--	--	--	48 con hrs	--	--	10 dys[12]	--	--	R-1 yr	R-1 yr	MO
MT	--	--	--	24 con hrs[3]	3 dys[3,7]	10 dys[9]	--	--	--	--	R-1 yr	R-1 yr	MT
NE	--	--	--	--	48 hrs	7 dys	--	--	--	R-60 dys	R-6 mos	R-1 yr	NE
NV	--	--	--	2 dys[4]	10 dys[19]	1 yr[10]	48 hrs	--	--	R-45 dys	R-1 yr	R-1.5 yr	NV
NH	--	--	--	--	7 dys[8]	7 dys[8]	--	--	--	R-90 dys	R-3 yrs	R-3 yrs	NH
NJ	--	--	--	--[18]	48 con hrs	90 dys	--	30 dys[11]	90 dys[11]	6 mos[13]	2 yrs[13]	10 yrs[13]	NJ
NM	--	--	--	--	48 con hrs	48 con hrs	--	--	--	--	R-1 yr	R-5 yrs	NM
NY	$350	$500	$500	--	--	--	--	--	--	--	--	--	NY
NC	--	--	--	--	7 dys	7 dys	--	--	--	R-10 dys	R-2 yrs	R-3 yrs	NC
ND	$250	$500	$1,000	--	4 dys[7]	60 dys[5]	--	10 dys	--	S-30 dys	S-364 dy	S-364 dy	ND
OH	--	--	--	3 con dys	10 con dys	30 con dys	--	--	--	--	--	S-180 dys	OH
OK	--	--	--	--	--	--	--	--	--	R-6 mos	R-2 yrs	R-3 yrs	OK
OR	--	--	--	48 hrs	48 hrs	48 hrs	80 hrs	80 hrs	80 hrs	--	S-90 dys	S-1 yr	OR
PA	$300	$300	$300	--	30 dys	90 dys	--	--	--	S-1 mos	S-12 mos	S-12 mos	PA
PR	--	--	--	--	--	--	--	--	--	--	--	--	PR
RI	$200	$500	$500	--	48 con hrs	48 con hrs	--	--	--	S-3 mos	S-1 yr	S-2 yrs	RI
SC	$200	--	--	48 hrs	48 hrs	60 dys	48 hrs	10 dys	--	--	S-1 yr	S-2 yrs	SC
SD	--	--	--	--	--	--	--	--	--	--	R-1 yr	R-1 yr	SD
TN	$250	$500	$1,000	48 hrs	45 dys	120 dys	--	--	--	--	R-2 yrs	R-3 yrs	TN
TX	--	--	--	--	72 hrs	10 dys	--	--	--	--	--	--	TX
UT	$150	$299	$299	48 hrs	48 hrs	30 dys	2 dys	10 dys	30 dys	S-90 dys	R-1 yr	R-1 yr	UT
VT	--	--	--	--	48 con hrs	48 con hrs	--	10 dys	10 dys	S-90 dys	S-18 mos	R-2 yrs	VT
VA	--	--	--	--	48 hrs	30 dys	--	--	--	--	R-2 yrs	R-5 yrs	VA

ANALYSIS BY STATES -- HIGH-INTEREST LEGISLATION (continued)

STATE	Fine ($) (Mandatory Minimum)			Imprisonment (Mandatory Minimum)			Community Service In Lieu of Jail			License Sanction (Mandatory Minimum Following a DWI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
WA	--	--	--	24 con hrs	7 dys	7 dys	--	--	--	S-30 dys	R-1 yr	R-2 yrs	WA
WV	$100	$1,000	$3,000	24 hrs	6 mos	1 yr	--	--	--	N/A	N/A	N/A	WV
WI	--	--	--	--	--	--	--	--	--	--	R-30 dys	R-60 dys	WI
WY	--	--	--	--	7 dys	7 dys	--	--	--	--	S-1 yr	R-3 yrs	WY
TOTAL	14	12	11	16	41	38	10	14	8	S - 15 R - 9	S - 17 R - 23	S - 12 R - 29	

S = Suspension
R = Revocation

---

[1] The court must sentence defendants to at least one of these sanctions but may sentence them to more than one such sanction.
[2] This sanction applies if a defendant is convicted of a criminal violation for a first DWI offense instead of a traffic infraction.
[3] Does not apply to illegal per se offense; this sanction only applies to "regular" DWI offenses.
[4] One day imprisonment or 24 hrs of community service if rehabilitation is taken.
[5] Must serve 48 consecutive hours.
[6] Or 14 days in a treatment facility.
[7] At least 48 consecutive hours.
[8] Seven (7) consecutive 24 hour periods.
[9] Must serve 48 consecutive hours; does not apply to illegal per se offenses.
[10] 30 days if rehabilitation is taken.
[11] Mandatory community service regardless of whether there is a mandatory imprisonment sanction.
[12] Involving at least 40 hours.
[13] The right to operate a motor vehicle is "forfeited."
[14] License suspension terminates after the completion of a treatment program; this could be either more than or less than one (1) year.
[15] This suspension is for a DWI traffic infraction; for a 1st offense DWI criminal violation, the license is suspended for a mandatory period of 90 days.
[16] 50 - 200 hours of community service in lieu of the fine.
[17] This sentence may not be suspended; however, the statute is silent as to probation.
[18] Mandatory treatment of not less than 12 nor more than 48 hours; this time is to be spent in an intoxicated driver resource center.
[19] 5 days if rehabilitation is taken; 48 hours must be served consecutively.
[20] Must serve two consecutive days.

STATE	**ALABAMA**
General Comments:	See "Code of Alabama"

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% §32-5A-191(a)(1)
Presumption (BAC Level):	Yes 0.10% §32-5A-194(b)(3)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §32-5-192
Other Information:	Special Note: A person who has been arrested for a DWI charge shall not be released until their BAC Level is less than 0.10; see §32-5A-191(g)

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §32-5-192
Urine:	Yes §32-5-192
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): None

Administrative Licensing Action (Susp/Rev): 1st Refusal - Susp-90 dys; 2nd Refusal (w/n 5 yrs) - Susp-1 yr; Special Note: These susp appear to be mandatory §32-5-192

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment/Fine: 1st off 32-5A-191(c)-Not more than 1 yr, $250- 1,000; 2nd Off (w/n 5 yrs) 32-5A-191(d)-Not more than 1 yr, $500 - $2,500, 48 consecutive hours [1]; 3rd or subsequent offs (w/n 5 yrs) 32-5A-191(e)-60, 60 dys to 1 yr, $1,000-5,000

Mandatory Minimum Term: 2nd off - 48 cons hrs; 3rd off - 60 dys

Mandatory Minimum Fine ($): N/A

Other Penalties:

Community Service: 1st conviction 32-5A-191(c)--; 2nd Off (w/n 5 yrs) 32-5A-191(d)-Not less than 20 dys [1]

Restitution (eg Victim's Fund) Special Note: Under Act 83-508, a defendant may be required to pay restitution to a victim (or a victim's representative) as a result of damages caused by the defendant's criminal behavior.

Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: No

UVC Type of Provisions: 1st Off - No; 2nd off - Yes UVC 6-205

Other: N/A

---

[1] The 20-dy community service sanction may be used as an alternative to the 48 consecutive hour imprisonment term.

Sanctions Following a Conviction for a DWI Off: (continued)

Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev) and Term of Withdrawal:	1st off - Susp, 90 dys 32-5A-191(c); 2nd off - Rev, 1 yr 32-5A-191(d); 3rd or subsequent offs - 3 yrs, 3 yrs 32-5A-191(e)
Mandatory Minimum Term of Withdrawal:	1st off - 90 dys; 2nd off - 1 yr; 3rd or subsequent offs - 3 yrs
Other:	
Rehabilitation:	
Alcohol Education:	1st off - Yes 32-5A-191(c)
Alcohol Treatment:	1st off - Yes 32-5A-191(c)
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	None
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	None
Other:	None
Miscellaneous Sanctions Not Included Elsewhere:	None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes, "Homicide By Veh"; §32-5A-192
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Not less than 1 yr nor more than 5 yrs
Mandatory Minimum Term:	N/A
Fine ($ Range):	Not less than $500 nor more than $2,000 (and/or Imprisonment)
Mandatory Minimum Fine:	$500

10

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

- Administrative Licensing Action:
  - Licensing Authorized and Type of Action: Rev §32-5A-195(j)(1)
  - Length of Term of Licensing Withdrawal: Not more than 1 yr §32-5A-195(m)
  - Mandatory Action--Minimum Length of License Withdrawal: N/A
  - Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

- Sanction:
  - Criminal:
    - Imprisonment (Term): (Misd) not more than 180 dys (and/or fine); §32-6-19
    - Mandatory Minimum Term of Imprisonment: N/A
    - Fine ($ Range): Not less than $100 nor more than $500 (and/or imprisonment); §32-6-19
    - Mandatory Minimum Fine: $25
  - Administrative Licensing Actions:
    - Type of Licensing Action (Susp/Rev): Rev (at the discretion of the director of public safety) §32-6-19
    - Length of Term of License Withdrawal Action: An additional period of 6 mos §32-6-19
    - Mandatory Term of License Withdrawal Action: N/A

Habitual Offender Laws:

- State Has Such Law (Yes/No): No
- Grounds for Being Declared an Habitual Offender: N/A
- Term of License Rev While Under Habitual Offender Status: N/A
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A
- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): N/A
  - Mandatory Minimum Term of Imprisonment: N/A
  - Fine ($ Range): N/A
  - Mandatory Minimum Fine ($): N/A
  - Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): No (Not specifically provided for by statute. Note: In Lankford v. Redwing Carriers, Inc., 344 So. 2d 515 (Ala., 1977), the BAC test law provisions were deemed to apply to dead persons.)

BAC Chemical Test Is Given to the the Following Persons:

Driver: N/A

Vehicle Passengers: N/A

Pedestrian: N/A

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 19 §§28-3A-2(18), 28-3A-18, 28-3A-25 & 28-3A-25(19) (Year eff. 1975)

Minimum Age (Years) Possession: 19

Minimum Age (Years) Consumption: 19

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes (Note: Because of new legislation in the 1980's, this law may be limited to acts committed by intoxicated minors or those intoxicated in dry counties) §6-5-71

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation No

Other: N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Note: This type of criminal offense was repealed by 1980 legislation.

Term of Imprisonment: N/A

Fine ($ Range): N/A

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): No

Length of Term of License Withdrawal: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	1st off 28-3A-6(1&2) - Misd; 2nd off 28-3A-b(1&2) - Misd; 3rd off 28-3A-b(1&2) - Misd
Term of Imprisonment:	1st off 28-3A-6(1&2) - Not more than 6 mos; 2nd off 28-3A-6(1&2) - 3 to 6 mos; 3rd off 28-3A-6(1&2) 6 to 12 mos
Fine ($ Range):	1st off 28-3A-6(1&2) - $100 to 1,000; 2nd off 28-3A-6(1&2) - $100 to 1,000; 3rd off 28-3A-6(1&2) - $100 to 1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	1st off 28-3A-6(1&2) - Yes[1]; 2nd off 28-3A-6(1&2) - Rev; 3rd off 28-3A-6(1&2) - Rev
Length of Term License Withdrawal:	1st off 28-3A-6(1&2) - 1 yr; 2nd off 28-3A-6(1&2) - 1 yr; 3rd off 28A-3A-6(1&2) - 1 yr

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

---

[1] Susp or rev--fine of not more than $1,000 may be authorized in lieu of susp or rev.

STATE:	ALASKA
General Comments:	See Alaska Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% §28.35.030(a)(2)
Presumption (BAC Level):	N/A
Other:	None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes 28.35.031(b)
Implied Consent Law:	
Arrest Required (Yes/No):	Yes 28.35.031
Other Information:	Special Note: A chemical test may be administered to a person without their consent if they have been arrested for a DWI off where there has been an accident involving death or physical injury to another person; See §28.35.035(a)

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	No
Urine:	No
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §28.35.030(d)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	Infraction not more than $300 §§28.35.031(e) & 28.35.230(c)
Administrative Licensing Action (Susp/Rev):	N/A
Other:	None

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	Cl A misd, Not more than 1 yr imprisonment and/or $5,000 fine (sanctions vary for each separate off and are the same as for DWI offs; §28.35.032(f) & (g)
Administrative Licensing Action (Susp/Rev):	1st Refusal-Not less than a 90-day rev; 2nd Refusal or a 1st refusal where there has been a previous DWI conviction-Not less than 1 yr rev[1] §§28.15.165, 28.15.166 & 28.15.181(c)
Other:	Special Note: All license rev periods given are mandatory.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment/Fine:	Cl A Misd, 1st Off - Not more than 1 yr, $250 - 5,000; 2nd Off[2] (w/n 10 yrs) - Not more than 1 yr, $500 - 5,000; Subsequent Offs[2] (w/n 10 yrs) - Not more than 1 yr, $1,000 - 5,000 §12.55.135
Mandatory Minimum Term:	1st off - 72 cons hrs; 2nd off - 20 cons dys; 3rd off - 30 cons dys
Mandatory Minimum Fine ($):	N/A
Other Penalties:	
Community Service:	Cl A Misd, 1st Off - Yes[3]; 2nd Off[2] (w/n 10 yrs) - Yes[3]; Subsequent Offs[3] (w/n 10 yrs) - Yes[3] §12.55.055
Restitution (eg Victim's Fund)	Cl A Misd, 1st Off - Yes; 2nd Off[2] (w/n 10 yrs) - Yes; Subsequent Offs[2] (w/n 10 yrs) - Yes §12.55.045
Other:	None

---

[1] Subsequent refusal where there have been 2 or more refusals or DWI conviction or a combination thereof - not less than a 10 yr rev. (The previous refusal/DWI conviction must have occurred within 10 yrs of the 1st refusal. §§28.15.164, 28.15.166 and 28.15.181(c))

[2] Special Note: A previous off is considered to be either a previous chemical test refusal or a previous DWI conviction (This note also applies to Cl A misd offs for refusal to submit to a chemical test; see §28.25.032(f) & (2).

[3] This community service is not an alternative to the mandatory minimum terms of imprisonment; the length and type of community service is discretionary with the court.

STATE - Alaska

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Actions:
- Pre-DWI Conviction Licensing Action:
  - Administrative Per Se Law: Yes 0.10, 1st Off-rev for not less than 90 dys (30 dys mandatory, a restricted hardship license may be issued for 60 dys); 2nd off (w/n 10 yrs)-rev for not less than 1 yr (mandatory)[1]
  - UVC Type of Provisions: N/A
  - Other: N/A

- Post DWI Conviction Licensing Action:
  - Type of Licensing Action (Susp/Rev): Rev §28.15.181(c)
  - Term of License Withdrawal (Days, Months, Years, etc.): Special Note: The revs for 1st, 2nd and subsequent DWI convictions are respectively the same as for 1st, 2nd and subsequent admin. per se offs.
  - Mandatory Minimum Term of Withdrawal: N/A

- Other:
  - Rehabilitation:
    - Alcohol Education: Yes[2] §28.35.030(c)
    - Alcohol Treatment: Yes[2] §28.35.030(c)
    - Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): No

  - Vehicle Impoundment/Confiscation:
    - Authorized by Specific Statutory Authority: Yes §28.35.036
    - Terms Upon Which Vehicle Will Be Released: N/A
    - Other: N/A

---

[1] Subsequent offs (w/n 10 yrs) - rev for not less than 10 yrs (mandatory) §§ 28.15.165, 28.15.166 and 28.15.181(c)

[2] For any DWI conviction, a defendant must complete either an alcohol education or an alcohol treatment program that the Court feels is appropriate for that defendant. § 28.35.030(c)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Miscellaneous Sanctions Not Included Elsewhere:	N/A Special Note: The Court may order the forfeiture of a driver's veh following either a DWI or chemical test refusal conviction if they have had more than one such conviction; also, under §28.35.038 municipalities may enact ordinances to impound/forfeit motor vehicles for violations of local DWI/chemical test refusal laws.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	No
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	N/A
Mandatory Minimum Term:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine:	N/A
Homicide by Vehicle	
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	N/A[1]
Length of Term of Licensing Withdrawal:	N/A
Mandatory Action--Minimum Length of License Withdrawal:	N/A
Other:	N/A
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Not less than 90 dys §28.15.291
Mandatory Minimum Term of Imprisonment:	90 dys
Fine ($ Range):	Not less than $1,000
Mandatory Minimum Fine:	None

---

[1] Special Note: Even though this State does not have a veh homicide statute, it, nevertheless, provides for discretionary license rev for 1 yr for a conviction of manslaughter resulting from the operation of a motor vehicle.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:
- Type of Licensing Action (Susp/Rev): Rev §28.15.291
- Length of Term of License Withdrawal Action: Original susp or rev extended 1 yr
- Mandatory Term of License Withdrawal Action: None

Habitual Offender Laws:
- State Has Such Law (Yes/No): No
- Grounds for Being Declared an Habitual Offender: None
- Term of License Rev While Under Habitual Offender Status: None
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: None
- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): N/A
  - Mandatory Minimum Term of Imprisonment: N/A
  - Fine ($ Range): N/A
  - Mandatory Minimum Fine ($): N/A
  - Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
- State Has Such a Law (Yes/No): No
- BAC Chemical Test Is Given to the Following Persons:
  - Driver: N/A
  - Vehicle Passengers: N/A
  - Pedestrian: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 §§04.16.50, .51 & .52 (Year Eff: 1983)
Minimum Age (Years) Possession:	21 (There are exemptions for parents/physicians furnishing alcoholic beverages to minors) §§04.16.50, .51 & .52
Minimum Age (Years) Consumption:	21 (There are exemptions for parents/physicians furnishing alcoholic beverages to minors) §§04.16.50, .51 & .52
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes §04.21.020
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes Nazareo v. Urie, 638 p.2d 671 (1981) Note: The holding in this case limited to actions arising before §04.21.020 was amended by the legislature in 1980.
Other:	None
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Cl A misd §04.16.180
Term of Imprisonment:	Not more than 1 yr
Fine ($ Range):	Not more than $5,000
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes §04.16.180
Length of Term of License Withdrawal:	1st conviction--45 day susp; 2nd conviction -- 90 day susp; 3rd and/or subsequent convictions--discretionary (no time limit given in the statute); Note: The susps and revs are not mandatory. §04.16.180
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Cl A Misd §04.16.180
Term of Imprisonment:	Not more than 1 yr
Fine ($ Range):	Not more than $5,000

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes §04.16.180
Length of Term License Withdrawal:	1st conviction--45 day susp; 2nd convictions --90-day susp; 3rd and/or subsequent convictions--Court's discretion (no time limit given in the statute.) Note: The time limitations are not mandatory.

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

STATE: **ARIZONA**
General Comments: See Arizona Revised Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.10% §28-692
Presumption (BAC Level): Yes 0.10% 28-692
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
  Arrest Required (Yes/No): Yes §28-692
  Other Information: None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes §28-691
Urine: Yes §28-691
Other: "Other bodily substances" approved in §28-691 (G) but not in §28-691 (implied consent statute)

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): Yes §28-692(c)[1]
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes §28-692.01A

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): N/A
  Administrative Licensing Action (Susp/Rev): N/A
  Other: N/A

---

[1] A DWI charge shall not be dismissed or changed to another misd/petty off unless there is clearly an insufficient legal basis for the DWI off charge

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	12 month susp (Mandatory) §28-691
Other:	A person may be required to attend and successfully complete a driver training course §28-446

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment/Fine/ Mandatory Minimum Term:	1st off Cl 1 misd-Not more than 6 mos, not more than $1,000; 2nd off Cl 1 misd (w/n 60 mos)-Not more than 6 mos, not more than $1,000 §13-707 §28-692.01; 3rd off (w/n 60 mos) Cl 5 felony §28-692 - 1 to 2 yrs, not more than $150,000 [1] §13-801
Mandatory Minimum Term:	1st off - 24 cons hrs; 2nd off - 60 dys; 3rd off - 6 mos
Mandatory Minimum Fine ($):	1st off Cl 1 misd-$250; 2nd off Cl 1 misd (w/n 60 mos)-$500; 3rd off (w/n 60 mos) Cl 5 felony §28-692.01-None
Other Penalties:	
Community Service:	1st off Cl 1 misd-Yes 8-24 hrs (May be used in addition to or as an alternate for imprisonment)
Restitution (eg Victim' Fund)	Upon a defendant's conviction for an off resulting in death, physical injury or economic loss to the victim, the Court may order that all or any portion of the fine imposed be allocated as restitution to be paid by the defendant. §13-803
Other:	1st off Cl 1 misd-Traffic safety school may be required
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	1st off-No; 2nd off-No; 3rd off-No
UVC Type of Provisions:	1st off-Yes; 2nd off-Yes; 3rd off-Yes
Other:	None

---

[1] See § 28-692.01(H) where a defendant may serve the term on a part time basis for employment purposes.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev) and Mandatory Term of License Withdrawal: 1st off-Susp, not less than 90 dys; 2nd off-Rev, not less than 1 yr; 3rd off-Rev, 3 yrs; §§28-445;28-448 & 28-692.01[1]

Mandatory Minimum Term of Withdrawal: 1st off-30 dys (After the 30-day mandatory susp, a restricted license may be issued for 60 dys.); 2nd off-1 yr; 3rd off-3 yrs

Other:

Rehabilitation:

Alcohol Education: 1st off - Yes

Alcohol Treatment: 2nd off - Yes; 3rd Off - Yes

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): None

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: None

Other: None

Miscellaneous Sanctions Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: No

Sanctions:

Criminal Sanction:

Imprisonment (Term): None

Mandatory Minimum Term: None

Fine ($ Range): None

Mandatory Minimum Fine: None

---

[1] In addition to any other legal sanction for a DWI off conviction, a person under 18 yrs old must receive license suspension for two (2) yrs; however, restricted driving privileges are available for employment/education purposes; see §§ 1-125(4) and 8-249(A) and (D). The legal purchase/possession/consumption age is 21.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:	
Licensing Authorized and Type of Action:	N/A Note: License rev for 1 yr for any homicide resulting from the operation of a motor veh.
Length of Term of Licensing Withdrawal:	N/A
Mandatory Action--Minimum Length of License Withdrawal:	N/A
Other:	Note: See Restitution for Arizona
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off - 10 dys to 6 mos; 2nd and subsequent offs - Cl 5 felony (2 yrs) if convicted of a DWI off and driving while suspended or revoked; §28-692.02 §28-473
Mandatory Minimum Term of Imprisonment:	1st off - 48 hrs; 2nd or subsequent offs - 6 mos; §28-269.02
Fine ($ Range):	1st off - $100 to $300
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	1st off - For driving while suspended - Susp; For driving while revoked - Rev; 2nd or subsequent offs - same as for 1st off; §28-473
Length of Term of License Withdrawal Action:	1st off - Susp equal to original susp period; Rev 1 additional yr of rev §28-473
Mandatory Term of License Withdrawal Action:	2nd and subsequent off - Same as for 1st off
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While Under Habitual Offender Status: **None**

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status **None**

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

- Imprisonment (Term): **None**
- Mandatory Minimum Term of Imprisonment: **None**
- Fine ($ Range): **None**
- Mandatory Minimum Fine ($): **None**
- Licensing Actions (Specify): **None**

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

- State Has Such a Law (Yes/No): Yes
- BAC Chemical Test Is Given to the Following Persons:
  - Driver: Yes §28-691(c)
  - Vehicle Passengers: No
  - Pedestrian: No

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

- Minimum Age (Years) Sale/Purchase: 21 [(4-101(20) & 4-244(9)] (Year Eff: 1985)
- Minimum Age (Years) Possession: 21 [(4-101(20) & 4-244(9)]
- Minimum Age (Years) Consumption: 21

Dram Shop Laws and Related Legal Actions:

- State Has a Dram Shop Law (Yes/No): No
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): Yes, Ontiveros v. Borak, et al., 667 P. 2d. 200 (Ariz. 1983), and Brannigan et al. v. Ray Buck, 667 P. 2d. 213 (Ariz. 1983)
- Other: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd

Term of Imprisonment: First two convictions - 30 dys to 6 mos; Subsequent convictions - 30 dys to 1 yr; §4-246

Fine ($ Range): First two convictions - $100 to $300; Subsequent convictions - $100 to $1,000 §4-246

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes - Rev §4-210

Length of Term of License Withdrawal: Length of term not fixed

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd 34-241 (A2 §4-246)

Term of Imprisonment: First two convictions - 30 dys to 6 mos; Subsequent convictions - 30 dys to 1 yr; §4-246

Fine ($ Range): First two convictions - $100 to 300; Subsequent convictions - $100 to 1,000 §4-246

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, rev §4-210

Length of Term License Withdrawal: Length of term not fixed

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	**No**
Anti-Consumption Law (Yes/No):	**Yes** -- Driver only §4-244(22) Note: There is also a law prohibiting the consumption of liquor (but not beer) in a public place; See §4-244(20); Beer may be consumed in certain limited public areas.

STATE: ARKANSAS
General Comments: See Arkansas Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.10% §75-2503(b)
Presumption (BAC Level): None
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
  Arrest Required (Yes/No): Yes §75-1045
  Other Information: None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: Yes
Other: None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): Yes[1]
Anti-Plea Bargaining Statute (Yes/No): Yes
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes §75-2506

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): N/A
  Administrative Licensing Action (Susp/Rev): N/A
  Other: N/A

---

[1] Persons arrested for a DWI charge off shall be tried on such charges or plead to such charges and no such charges shall be reduced. §75-2508.

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test:

Criminal Sanction (Fine/Jail): None

Administrative Licensing Action (Susp/Rev): Susp for not less than 6 mos; Susp for not less than 1 yr for a subsequent refusal within 3 yrs; (§75-1045; §11 Act 549, 1983) (Mandatory)

Other: None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment/Fine/ Mandatory Minimum Term: 1st off[1]-24 hrs-1 yr $150 - 1,000, None see Note; 2nd off (w/n 3 yrs)[1] - 7 dys-1 yr, $400 to 3,000, None see Note; 3rd off (w/n 3 yrs)[1] - 90 dys to 1 yr, $900 - 5,000, None see Note; 4th and subsequent offs (w/n 3 yrs)[1] - 1 to 6 yrs, None see Note; §75-2504 Note: There is a special Court cost of $250 for any person pleading guilty, nolo contendere or who is found guilty of DWI.

Mandatory Minimum Term: None

Note: The minimum sentence may not be mandatory due to the suspended sentence and/or probation provisions of §§41-108 and 43-2331: these provisions may apply notwithstanding §75-2509

Mandatory Min. Fine ($): None

Other Penalties:

Community Service: 1st off - Yes (Public Service in lieu of imprisonment

---

[1] Special Note: Arkansas has two different sanctioning systems for DWI offs. One system applies to the imprisonment sanction and the other applies to the fine sanction. For the imprisonment sanction, the sanctions listed apply for any of the listed subsequent offs which have been committed within three (3) yrs of a first off. For the fine sanction, the sanctions listed apply for any of the listed subsequent offs which have been committed within five (5) yrs of a first off. For example, if a person has been convicted of a DWI off which occurred more than three but less than five yrs from a first DWI conviction, they would be imprisoned as if they were a first offender but fines as if they were a second. Note: The three-yr time period as applied to the imprisonment sanction is also used to determin whether a fourth or subsequent DWI conviction is to be considered a felony.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Restitution (ie Victim's Fund)	None
Other:	None
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev) and Term of License Withdrawal Action:	1st off - Susp, At least 90 dys; 2nd off (w/n 3 yrs) - Susp, At least 1 yr; 3rd[1] off[1] (w/n 3 yrs) - Susp, At least 3 yrs; 4th and subsequent offs[1] (w/n 3 yrs) - Rev, 3 yrs §75-2511
Mandatory Minimum Term of Withdrawal:	1st off - 90 dys; 2nd off[1] - 1 yr; 3rd off[1] - 2 yrs; 4th or subsequent offs[1] - 3 yrs
Other:	
Rehabilitation:	
Alcohol Education:	Yes
Alcohol Treatment:	Yes
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	Note: Either an alcohol education or alcohol treatment program must be completed before either a suspended or a revoked license can be reinstated §75-2507
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	Yes
Terms Upon Which Vehicle Will Be Released:	None

---

[1] Note: The section allowing the issuance of resticted licenses to DWI offenders was specifically repealed by §18(h) of Act 549, 1983

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other: License plates shall be impounded for 90 dys if a driver has been arrested for driving while suspended or revoked where such susp or rev was based on an alcohol off conviction. §75-2513

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Negligent homicide, Death based on reckless or wanton disregard of the safety of others (§75-1001)

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 1 yr

Mandatory Minimum Term: None

Fine ($ Range): $100 - $1,000

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and Type of Action: Rev

Length of Term of Licensing Withdrawal: 1 yr

Mandatory Action--Minimum Length of License Withdrawal: 1 yr

Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Misd 2 dys to 6 mos (§§ 75-341, 75-1029.1, 75-1053 and 75-2514)

Mandatory Minimum Term of Imprisonment: 10 dys if susp or rev is based on a DWI charge

Fine ($ Range): Not more than $500

Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): If based on susp, susp. If based on rev, rev.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Length of Term of License Withdrawal Action:	Original susp period is extended a like period. Original period of rev is extended 1 yr.
Mandatory Term of License Withdrawal Action:	Original susp period is extended a like period. Original period of rev is extended 1 yr.
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	None
Fine ($ Range):	None
Mandatory Minimum Fine ($):	None
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 §48-903 & §48-903.1 (Year eff: 1935)
Minimum Age (Years) Possession:	21 §48-903 & §48-903.1
Minimum Age (Years) Consumption:	N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	No
Other:	Note: See Carr v. Turner, 385 S.W. 2d 656 (Ark. 1965)
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	1st off - Misd; 2nd and subsequent offs - Misd; (§§ 48-529, 48-901, 48-902, 48-933)
Term of Imprisonment:	1st off - None; 2nd and subsequent offs - 6 mos to 1 yr
Fine ($ Range):	1st off - $100 to 250; 2nd and subsequent offs - $250 to 500
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, rev
Length of Term of License Withdrawal:	Not specified in the statute
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	1st off - Misd; 2nd and subsequent offs - Misd; (§§ 48-524, 48-901, 48-902, and 48-903)
Term of Imprisonment:	1st off - None; 2nd and subsequent offs - 6 mos to 1 yr
Fine ($ Range):	1st off - $100 to $250; 2nd and subsequent offs - $250 to $500
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes, rev
Length of Term License Withdrawal:	Not specified in the statute (but see Ark. Stat. Ann. §48-525)

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	**No**
Anti-Consumption Law (Yes/No):	**Yes** (Probably but the law is not specific) - drivers and passengers §41-2913(3))

STATE: CALIFORNIA
General Comments: See West's Annotated California Codes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.10% Veh. §§23152(b) and 23153(b)
Presumption (BAC Level): Yes 0.10% Veh §23155(3)
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
    Arrest Required (Yes/No): Yes Veh. §13353
    Other Information: None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes Veh. §13353
Urine: Yes Veh. §13353
Other: None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No (Note: Under Veh. Code 23212, the court must give the reasons a DWI charge was either reduced to a lesser offense or was dismissed.)
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
    Criminal Sanctions (Fine/Jail): N/A
    Administrative Licensing Action (Susp/Rev): N/A
    Other: N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): No

Administrative Licensing Action (Susp/Rev): Susp-6 mos; Susp for 1 yr if a person refuses after having been convicted of either a DWI or reckless driving off within 5 yrs of the date of refusal (Mandatory); Veh. §13353[2]

Rev for 3 yrs if a person refuses after having been convicted 2 or more times of either a DWI or Reckless Driving off within 5 yrs of the date of refusal (Mandatory); Veh. §13353

Other: No

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment/Fine: Non-Injury DWI Off (Veh. sec. 23152 et seq.), 1st Off-96 hrs-6 mos, $390 - $1,000, None; 2nd Off[2] (w/n 5 yr)-90 dys-1 yr, $390 - 1,000; 3rd Off[2] (w/n 5 yrs.)-120 dys 1 yr, $390 - 1,000; 4th & Sub Off[2] (w/n 5 yrs) - 180 dys to 1 yr, $390 - 1,000; Injury related off's[1], 1st off - $390 - 1,000; 2nd off[2] (w/n 5 yrs) - $390 - 5,000; 3rd and subsequent offs[2] (w/n 5 yrs) - $1,015 - 5,000, 1 yr Special Note: Under Veh sec. 13350 a Penal Code sec. 192 off conviction is alcohol/drug related, is deemed a Veh sec. 23153 off conviction. Therefore, a subsequent off included Veh. Code Sec. 23153 and Penal Code Sec. 192 offs.

Mandatory Minimum Term: Non-injury DWI off - 48 hrs; 3rd off - 120 dys; 4th and sub iff - 180 dys; Injury related DWI off, 1st off - 5 dys; 2nd off - 30 dys; 3rd off - 1 yr

---

[1] Injury related DWI offs (Veh. sec. 23153 et. seq.)
1st off - 90 dys to 1 yr
2nd off (w/n 5 yrs) 120 dys to 1 yr
3rd off (w/n 5 yrs) 2 to 4 yrs

[2] A previous subsequent off includes Veh. Code sec. 23153 and Penal Code sec. 192 offs.

36

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Min. Fine ($): Non-Injury DWI Off, 1st Off - $390; 2nd Off[3] (w/n 5 yr)-$375; 3rd Off[1] (w/n 5 yrs)-$390; 4th & Sub Offs[1] (w/n 5 yrs.)- $390; Injury related DWI off's[1], 1st Off- $390; 2nd Off[1] (w/n 5 yrs)-$390; 3rd & Sub Off[1] (w/n 5 yrs) - $390

Other Penalties:
Community Service: None
Restitution (eg Victim's Fund) Yes, Injury-related DWI offs (Veh. sec. 23153 et. seq.) See Gov't Code Sec 13959 and Veh 23191(a)
Other: None

Administrative Licensing Actions:
Pre-DWI Conviction Licensing Action:
Administrative Per Se Law: None
UVC Type of Provisions: None
Other: N/A

Post DWI Conviction Licensing Action:
Type of Licensing Action (Susp/Rev): Non-Injury related DWI Off, 1st off Susp - (Veh.§23161); 2nd off Susp - (Veh.§23161(b)(3)); 3rd off Rev (Veh.§23171(a)); 4th & subsequent off Rev -(Veh.§23175); Injury Related DWI Off, 1st off Susp -(Veh.§23181(a)); 2nd off Rev (Veh. 23185); 3rd & subsequent Rev-(Veh.§23191(a))
Term of License Withdrawal (Days, Months, Years, etc.): Non-Injury related DWI Off, 1st Off-6 mos; 2nd Off-1 yr; 3rd Off-3 yrs; 4th & subsequent-4 yrs; Injury Related DWI Off, 1st Off-1 yr; 2nd Off-3 yrs; 3rd & subsequent Off-5 yrs; Note: See generally Veh. secs. 13352 and 13352.5,
Mandatory Minimum Term of Withdrawal: Non-Injury related DWI Off, 1st Off --[1]; 2nd off --[1]; 3rd Off-3 yrs; 4th & subsequent Off- 4 yrs; Injury Related DWI Off, 1st Off-1 yr; 2nd Off - 1 yr susp.[2]; 3rd & subsequent Offs - 5 yrs [3]

---

[1] A previous subsequent off includes Veh. Code sec. 23153 and Penal Code sec. 192 offs.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	
Rehabilitation:	
Alcohol Education:	Probation usually requires a defendant to participate in an alcohol education program for any DWI off conviction. See Veh. §§23161, et seq. (Note: a person convicted of a first DWI offense in a juvenile court must participate in and complete either an alcohol or drug education program; see Veh. Code 23154.)
Alcohol Treatment:	None
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	None
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	Yes, 1st DWI off - the veh may be impounded for a DWI off from 1-30 dys; 2nd and subsequent DWI offs (w/n 5 yrs) - the veh may be impounded from 1 to 90 days; Veh. §23195
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	Note: A veh may also be impounded for a conviction of driving while license is suspended or revoked: 1st off-6 mos impoundment; 2nd and subsequent offs-12 mos impoundment; Veh. §14602
Miscellaneous Sanctions Not Included Elsewhere:	None

---

[1] Driving privileges may be resticted (Veh. § 133352); under certain probation conditions

[2] One (1) yr suspension and 2 yrs restricted driving privileges if the court grants probation under Veh. sec. 23186.

[3] Special Note: Under Veh. Code § 13352.3 persons, under 18, who are convicted of an alcohol driving off have their licenses revoked (1) until they are 18, (2) for 1 yr or (3) per Veh. Code § 13352 whichever period is longer.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes - Vehicle Manslaughter See Penal Code sec. 192 and 193

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1. Death caused by driving a motor veh, not involving alcohol/drugs: a. with gross negligence - 2, 4, or 6 yrs; b. without gross negligence - Not more than 1 yr; 2. Death caused by driving a motor veh in violation of Veh. sec. 23152 and 23153: a. with gross negligence - 4, 6, or 8 yrs; b. without gross negligence - Not more than 1 yr in the county jail or 16 mos, 2 or 4 yrs in the State prison.

Mandatory Minimum Term: None

Fine ($ Range): None

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and Type of Action: For (1)(a) - Rev; For (2)(a) and (b) - Note: under Veh. sec. 13350.5, a violation of these provisions is also deemed a violation of Veh. sec. 23153, thus, the lic. susp/rev provisions of veh sec. 23153 would apply.

Length of Term of Licensing Withdrawal: For (1)(a) - 3 yrs; For (2)(a) and (b) - See note above

Mandatory Action--Minimum Length of License Withdrawal: N/A

Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-10 dys-6 mos; 2nd and subsequent offs (w/n 5 yrs)-30 dys-1 yr and veh impoundment; Veh. §14601.2

Mandatory Minimum Term of Imprisonment: 1st off-10 dys; 2nd and subsequent offs (w/n 5 yrs)-30 dys; For a 2nd or subsequent off w/n 7 but more than 5 yrs - 10 dys see §14601.2(g)

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Fine ($ Range):	1st off-Not more than $1,000; 2nd and subsequent offs (w/n 5 yrs)-Not more than $2,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	N/A
Length of Term of License Withdrawal Action:	N/A
Mandatory Term of License Withdrawal Action:	N/A
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes Veh. §13353
Vehicle Passengers:	Implied
Pedestrian:	Implied

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21, Bus. & Prof. Code §§25658 & 25662 (Year Eff: 1933)
Minimum Age (Years) Possession:	21, (Possession under 21 legal if minor is acting via a parent's order), Bus. & Prof. Code §§25658 & 25662
Minimum Age (Years) Consumption:	21 (This applies only to consumption on the premises of licensed establishments) Bus. & Prof. Code §§25658 & 25662
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes, but limited to the serving of alcoholic beverages to intoxicated minors. Bus. & Prof. Code §25602.1
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	No (Note: See Bus. & Prof. Code §25602(c) and Cory v. Shierloh, 174 Cal. RPTR 500 (1981).)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Misd, (Bus. & Prof. Code §25602)
Term of Imprisonment:	Not more than 6 mos, (Bus. & Prof. Code §25617)
Fine ($ Range):	Not more than $500
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, susp or rev
Length of Term of License Withdrawal:	Length of term not fixed
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Misd (Bus. & Prof. Code §25658)
Term of Imprisonment:	Not more than 6 mos
Fine ($ Range):	Not more than $500

STATE: COLORADO
General Comments: See Colorado Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.15% §42-4-1202(1.5)(a)
Presumption (BAC Level): Yes >0.05% (Driving while impaired)
0.10% (Driving under the influence)
§42-4-1202(1)(a) & (b)
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes §42-4-1202(2.5)
Implied Consent Law:
Arrest Required (Yes/No): Yes §42-4-1202(3)(a) Express consent law not implied.
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes §42-4-1202
Urine: Yes
Other: Saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): Yes[1] §42-4-1202(3.7)
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): No
Administrative Licensing Action (Susp/Rev): No
Other: N/A

---

[1] One may not plead Guilty to non-alcohol or non-drug related traffic off if charged with DWI unless the prosecuter makes good a faith allegation that he/she could not establish a prima facie case on the original charge.

STATE - Colorado

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Rev 1 yr (Mandatory) §§42-4-1202(3)(d) 42-2-122.1(3)(5) & 42-2-122.1 (6)(a)
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Months, Years Etc.):	Driving under the influence/illegal per se, 1st Off-5 dys to 1 yr; 1st Off[1]-70 dys to 1 yr; 2nd or subsequent off (w/n 5 yrs)-90 dys to 1 yr; Driving while impaired, 1st Off-2 dys to 180 dys; 1st Off[2]-60 dys to 1 yr; 2nd or subsequent off-45 dys to 1 yr (if a previous impaired conviction)[1] §§42-4-1201 and 42-4-1202
Mandatory Minimum Term:	Driving under the influence/illegal per se, 1st Off-No; 1st Off[1]-7 dys; 2nd or subsequent off (w/n 5 yrs)-7 dys; Driving while impaired 1st Off-No; 1st Off[2]-6 dys; 2nd or subsequent off-5 dys; See Alcohol Treatment
Fine:	
Amount ($ Range):	Driving under the influence/illegal per se, 1st Off-$300 to 1,000; 1st Off[1]-$450 to 1,500; 2nd or subsequent off (w/n 5 yrs)-$500 to 1,500; Driving while impaired, 1st Off- $100 to 500; 1st Off[2]-$450 to 1,200; 2nd or subsequent off-$300 to 1,000
Mandatory Minimum Fine ($):	N/A
Other Penalties:	
Community Service:	Driving under the influence/illegal per se, 1st Off-48 to 96 hrs (48 hrs. mandatory); 1st Off[1]-56 to 112 hrs (56 hrs mandatory); 2nd or subsequent off (w/n 5 yrs)-60 to 120 hrs (60 hrs mandatory), Driving While Impaired, 1st Off-24 to 48 hrs (24 hrs mandatory), 2nd or subsequent off-48 to 96 hrs (48 hrs mandatory)
Restitution (ie Victim's Fund)	N/A

---

[1] But where there has been within 5 yrs a conviction for a driving while impaired off

[2] But where there has been w/n 5 yrs a conviction for a driving while under the influence off.

Sanctions Following a Conviction for a DWI Offense:

Other:	Special Note: Persons assigned to community service must pay fee of no more than $40; This is used to keep the community service self-supporting and to purchase insurance; See §42-4-1202(4)(g)(v)
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes 0.15% for mandatory period of 1 yr §42-2-122.1
UVC Type of Provisions:	None
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Driving while under the influence and illegal per se, 1st off - Susp; Driving while impaired, 1st off[1] - Variable[1]
Term of License Withdrawal (Days, Months, Years, etc.):	Driving while under the influence and illegal per se, 1st off-Susp Not less than 1 yr; Driving while impaired, 1st off-1 yr[3]; §42-2-123(8.5)

---

[1] Eight (8) points placed on driver's record; generally the accumulatiuon of either 12 points in 12 mos or 18 points in 24 mos results in license susp for not more than one yr, but a probationary-restricted license may be issued; see 42-2-123(1)(a), (5) and (11); A conviction for either an impaired, under the influence, or illegal per se off where there has been a previous alcohol driving off convictions of any type within a 5-yr period — Rev (42-2-122(1)(g) and 42-2-124(2)); A conviction for either an impaired, under the influence of illegal per se influence or illegal per se off where there has been two previous alcohol driving off convictions of any type — Rev (§ 42-2-122(1)(1))

[2] Special Note: If the first offender is a minor, a person under 21 yrs of age (see § 2-4-402(b)), their license must be revoked for a 1 yr period. See §§ 42-2-122(i)(j) and 42-2-124(2).

[3] A conviction for either an impaired, under the influence, or illegal per se off where there has been a previous alcohol driving off convictions of any type within a 5-yr period — 1 yr; A conviction for either an impaired, under the influence of illegal per se influence or illegal per se off where there has been two previous alcohol driving off convictions of any type — Indefinite period

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Minimum Term of Withdrawal:	Driving while under the influence and illegal per se, 1st off -None[1]; Driving while impaired, 1st off - None; See footnote 2 and 3
Other:	
Rehabilitation:	
Alcohol Education:	1st off--Yes, court may suspend mandatory minimum sentence
Alcohol Treatment:	1st off--Yes, court may suspend mandatory minimum sentence
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	1st off--court may suspend mandatory minimum sentence if defendant completes obligation of level I or level II program.
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes, Felony (Col. Rev. Stat. §18-3-106) §42-4-1201

---

[1] A probationary-restricted license may be issued for reasons of employment/alcohol education, et al; see § 42-2-123(11) & (13)

[2] Special Note: If the first offender is a minor, a person under 21 yrs of age (see § 2-4-402(b)), their license must be revoked for a 1 yr period. See §§ 42-2-122(i)(j) and 42-2-124(2).

[3] A conviction for either an impaired, under the influence, or illegal per se off where there has been a previous alcohol driving off convictions of any type w/n a 5-yr period - 1 yr; A conviction for either an impaired, under the influence of illegal per se influence or illegal per se off where there has been two previous alcohol driving off convictions of any type - 2 yrs

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	2-4 yrs
Mandatory Minimum Term:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev
Length of Term of Licensing Withdrawal:	1 yr
Mandatory Action--Minimum Length of License Withdrawal:	1 yr
Other:	N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off-30 dys to 1 yr; 2nd and subsequent offs-90 dys to 2 yrs; 42-2-130
Mandatory Minimum Term of Imprisonment:	1st off-30 dys; 2nd and subsequent offs-90 dys
Fine ($ Range):	1st off-$500 to 1,000; 2nd and subsequent offs-$500 to 3,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Rev
Length of Term of License Withdrawal Action:	4 yrs
Mandatory Term of License Withdrawal Action:	4 yrs; §42-2-130

Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes, 42-2-201
Grounds for Being Declared an Habitual Offender:	3 or more serious offs in 7 yrs, or 10 or more convictions for offs of 4 points or more within 5 yrs, or 18 or more convictions of 3 points or less within 5 yrs; §42-2-2-20

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

- Term of License Rev While Under Habitual Offender Status: **Rev for 5 yrs;** §42-2-205
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: **Felony,** §42-2-206
- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): **1-2 yrs**
  - Mandatory Minimum Term of Imprisonment: **None**
  - Fine ($ Range): **None**
  - Mandatory Minimum Fine ($): **None**
  - Licensing Actions (Specify): **None**

Other State Laws Related To Alcohol Use And Driving:

- Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
  - State Has Such a Law (Yes/No): **Yes**
  - BAC Chemical Test Is Given to the the Following Persons:
    - Driver: **Yes**
    - Vehicle Passengers: **N/A**
    - Pedestrian: **Yes**
- Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
  - Minimum Age (Years) Sale/Purchase: **18 for 3.2% beer; 21** for all other alcoholic beverages; §§12-46-112 & 12-47-128 (Year Eff: 1945)
  - Minimum Age (Years) Possession: **18 for 3.2% beer; 21** for all other alcoholic beverages (applies to possession in public places and motor vehs); §§12-46-112 & 12-47-128
  - Minimum Age (Years) Consumption: **N/A**
- Dram Shop Laws and Related Legal Actions:
  - State Has a Dram Shop Law (Yes/No): **Yes,** §13-21-103
  - "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): **Possible,** see Kerby v. Flamingo Club, Inc., 532 p.2d 975 (1974).
  - Other: **N/A**

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	1st off-Misd; 2nd and subsequent offs-misd; §12-46-114
Term of Imprisonment:	None; §12-46-114
Fine ($ Range):	1st off-$100 to 500; 2nd and subsequent offs-$100 to 500 ($100 is mandatory)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, 1st off-Susp or Rev; 2nd and subsequent offs-Susp or Rev; §12-47-110
Length of Term of License Withdrawal:	6 mos

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	1st off-misd; 2nd and subsequent offs-misd; 12-46-114
Term of Imprisonment:	None; 12-46-114
Fine ($ Range):	1st off - $100 to 500; 2nd and subsequent offs - $100 to 500 ($100 fine is mandatory)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	1st off-Susp or Rev; §12-47-110
Length of Term License Withdrawal:	6 mos §12-47-110

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes - driver and passengers; §12-47-128(1)(h) (Note: The law states that "it is unlawful for any person: to consume malt, wines, or spiritous liquor in a public place"; licensed premises are excepted)

STATE:	CONNECTICUT
General Comments:	See Connecticut General Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Infraction if BAC is greater than 0.07% but less than 0.10%
Presumption (BAC Level):	N/A
Other:	A BAC if more than 0.07% but less than 0.10% constitutes evidence of alcohol impairment. 14-227a(d)(3) makes a BAC of 0.10% prima facie evidence that the defendant was under the influence of intoxicating liquor.

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes 14-227b
Other Information:	None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 14-227(d)
Urine:	Yes 14-227(d)
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No Note: The law requires the State to give to the Court in open session the reasons why a criminal DWI charge was reduced or dismissed. 14-227a
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes (first-time DWI offenders; see sec 4 of P.A. 81-446)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st refusal - susp for 6 mos; 2nd refusal-Susp for 1 yr [1]; Subsequent refusal-Susp for 3 yrs [2]; (These suspensions are mandatory) 14-227b(f)
Other:	Special Note: If a driver refuses to submit to the chemical test, the police dept. must hold their license for 24 hrs.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	1st Off-Not more than 6 mos; 2nd Off-Not more than 1 yr; 3rd Off-Not more than 2 yrs; 4th and sub off's -Not more than 3 yrs 14-227a(h); Alcohol Infraction-None; Veh Assault-Not more than 5 yrs 53a-60d
Mandatory Minimum Term:	2nd off-48 cons hrs; 3rd off-30 dys; 4th and subsequent offs -1 yr
Fine:	
Amount ($ Range):	1st Off - $500-1,000; 2nd Off-$500-2,000; 3rd Off - $1,000-4,000; 4th and subsequent offs - $2,000-8,000 14-227a(h); Alcohol Infraction-Fine schedule determined by the Courts (See 51-164m); Veh Assault - Cl D felony-Not more than $5,000
Mandatory Minimum Fine ($):	All offs - None
Other Penalties:	
Community Service:	All offs - None
Restitution (eg Victim's Fund)	All offs - None
Other:	All offs - None

---

[1] This 1-yr susp would also apply to a 1st refusal where there has been a previous DWI off conviction.

[2] This 3-yr susp would also apply to a 2nd refusal where ther has been a previous DWI off conviction.

Sanctions Following a Conviction for a DWI Offense: (continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None

UVC Type of Provisions: None

Other: Special Note: The police may take and hold a driver's license for 24 hrs if the driver has a BAC level of 0.10% or more; see 14-227a(b)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): For 1st, 2nd and 3rd offs -Susp; 4th and subsequent offs - Rev 14-227a(h); Alcohol infraction - None; Veh Assault, DWI off - Susp

Term of License Withdrawal (Days, Months, Years, etc.): 1st off - 1 yr; 2nd off - 2 yrs ; 3rd off - 3 yrs; 4th and subsequent offs - Permanently; Alcohol infraction - None; Veh Assault, DWI off - 1 yr

Mandatory Minimum Term of Withdrawal: 1st off - 1 yr[1]; 2nd off - 2 yrs[1]; 3rd off - 3 yrs[1]; 4th and subsequent offs - Permanently[1]; Alcohol infraction - None; Veh Assault, DWI off - 1 yr

Other:

Rehabilitation:

Alcohol Education: Yes - For all DWI criminal offs 14-227a(k)

Alcohol Treatment: Yes - For all DWI criminal offs 14-227a(k)

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): Yes - For all DWI criminal offs

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: None

Terms Upon Which Vehicle Will Be Released: None

Other: None

Miscellaneous Sanctions Not Included Elsewhere: None

---

[1] Note: The law does not specifically prohibit a court from reducing these susp periods.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, Cl C felony (A person is guilty of manslaughter in the second degree when in consequence of his intoxication while operating a motor vehicle, he causes the death of another person.) 53a-56b

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 10 yrs; 53a-56b

Mandatory Minimum Term: None

Fine ($ Range): Not more than $5,000; 53a-41

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and Type of Action: Susp; 53a-56b

Length of Term of Licensing Withdrawal: 1 yr

Mandatory Action--Minimum Length of License Withdrawal: None

Other: None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Not more than 1 yr; 14-215(c)

Mandatory Minimum Term of Imprisonment: 5 dys

Fine ($ Range): $500-1,000

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): 1st off - Susp; Subsequent offs - Susp; 14-111(b)

Length of Term of License Withdrawal Action: 1st off - Not less than 1 yr; Subsequent offs - Not less than 5 yrs

Mandatory Term of License Withdrawal Action: None (Note: See 14-111(k))

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:
- State Has Such Law (Yes/No): No
- Grounds for Being Declared an Habitual Offender: None
- Term of License Rev While Under Habitual Offender Status: None
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: None
- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): None
  - Mandatory Minimum Term of Imprisonment: None
  - Fine ($ Range): None
  - Mandatory Minimum Fine ($): None
  - Licensing Actions (Specify): None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
- State Has Such a Law (Yes/No): Yes
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Yes, 14-227c
  - Vehicle Passengers: None
  - Pedestrian: Yes, 14-227c

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
- Minimum Age (Years) Sale/Purchase: 20, 30-86-30-1(20) (Yr Eff: 1983)
- Minimum Age (Years) Possession: N/A
- Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:
- State Has a Dram Shop Law (Yes/No): Yes, 30-102
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): No
- Other: None

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
Type of Criminal Action: Misd
Term of Imprisonment: Not more than 1 yr 30-113
Fine ($ Range): Not more than $1,000 30-113

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Susp or rev 30-55
Length of Term of License Withdrawal: Not stated in the statute

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Misd
Term of Imprisonment: Not more than 1 yr 30-113[1]
Fine ($ Range): Not more than $1,000 30-113

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Susp of rev 30-55
Length of Term License Withdrawal: Unspecified

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
Open Container Law (Yes/No): No
Anti-Consumption Law (Yes/No): No

---

[1] Special Note: Any person, except a parent, guardian or physician who gives/delivers liquors to a minor, shall be fined not more than $1,500 or imprisoned not more than 18 months, or both; see 30-86.

STATE:	DELAWARE
General Comments:	See Delaware Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	**Yes 0.10%** 21 §4177
Presumption (BAC Level):	**None**
Other:	A BAC of 0.10 is prima facie evidence that a person was under the influence of intoxicating liquor. 11 §3505

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	**Yes** 21 §2741
Implied Consent Law:	
Arrest Required (Yes/No):	Probably not §2740 and §2742(e)
Other Information:	**None**

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	**Yes** 21 §2740
Urine:	**Yes** 21 §2740
Other:	**None**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	**No**
Anti-Plea Bargaining Statute (Yes/No):	**No**
Pre-Sentencing Investigation Law (PSI) (Yes/No):	**No**

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	**None**
Administrative Licensing Action (Susp/Rev):	**None**
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	**None**

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Administrative Licensing Action (Susp/Rev):	1st Refusal - Rev for 1 yr (6 mos mandatory); (Note: A conditional hardship license may be issued of certain limited conditions are met.); 2nd Refusal (w/n 5 yrs) - 18 mos (Mandatory Rev[1]); 3rd and subsequent Refusals (w/n 5 yrs) - 24 mos (Mandatory Rev[1])

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	1st Off - 60 dys-6 mos; 2nd or subsequent off (w/n 5 yrs) - 60 dys-18 mos; Veh Assault, A DWI related injury where there has been (1) Negligent driving (Cl B misd)-Not more than 6 mos; (2) Criminally negligent driving (Cl A misd)-Not more than 2 yrs
Mandatory Minimum Term:	Under 21 §4177(f) a person convicted of a second or subsequent DWI off may not receive a suspended sentence; however, there is not specific language that prohibits a Court from placing a defendant on probation after sentencing.
Fine:	
Amount ($ Range):	1st Off- $200-1,000[1]; 2nd or subsequent off (w/n 5 yrs)- $500-2,000[1]; Veh Assault, A DWI related injury where there has been (1) Negligent driving (Cl B misd)-Not more than $500; (2) Criminally negligent driving Cl A Misd) - Not more than $1,000
Mandatory Minimum Fine ($):	None
Other Penalties:	
Community Service:	None
Restitution (eg Victim's Fund)	1st Off- Yes; 2nd and subsequent off (w/n 5 yrs)- Yes 11 §9001 et seq[1]; An additional amount equal to 15% of any fine (whether the fine is suspended or not) is assessed against the defendant; such assessments are placed in a victim's Comp. Fund
Other:	None

---

[1] For a 2nd and 3rd refusals; the driver would probably not be elligible for a conditional hardship license. 21 §§2741, 2742, 2743, 4177E

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes
UVC Type of Provisions:	Yes 21 §2733
Other:	Note: Licensing sanctions (Rev) under the Admin Per Se law are as follows: 1st off- 3 mos; 2nd off- 1 yr; 3rd or subsequent offs- 18 mos; 2nd, 3rd, and subsequent offs include implied consent violations as well as DWI offs and are those occuring within five yrs of a first offs all admin. per se lic actions are mandatory (see 21 §§2742 and 2743)
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st Off-Rev; 2nd Off (w/n 5 yrs)-Rev; 3rd or subsequent off (w/n 5 yrs)-Rev; 21 §4177a; Veh Assault-A DWI related injury where there has been (1) negligent driving-Rev; (2) Criminally negligent driving-Rev
Term of License Withdrawal (Days, Months, Years, etc.):	1st Off-1 yr; 2nd Off (w/n 5 yrs)-1 yr; 3rd or subsequent off (w/n 5 yrs)-18 mos; Veh Assault, A DWI related injury where there has been (1) negligent driving-1 yr; (2) Criminally negligent driving-2 yrs
Mandatory Minimum Term of Withdrawal:	1st Off-90 dys (A conditional license may be issued after the first 90 dys of the rev period; 2nd and subsequent offs - 6 mos; see 21 §§4177B & 4177c (A conditional license may be issued after 6 mos of the rev period, see 21 § 4177c(b))
Other:	
Rehabilitation:	
Alcohol Education:	For any DWI off-Course of instruction and rehabilitation required for convicted persons prior to having their licenses/driving privileges reinstated[1]

---

[1] Subsequent offs within 5 yrs of a first - "Ordered to complete a program of education or rehabilitation which may include in-patient treatment followed by such other programs as established by training facility" for a time not to exceed 15 mos and pay a fee not to exceed the maximum fine. 21 §4177 and 4177D--Persons violating either the implied consent or admin per se laws must complete an alcohol education/alcohol rehabilitation program (21 §2743(c)).

Sanctions Following a Conviction for a DWI Offense: (continued)

Alcohol Treatment: None

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): None

Vehicle Impoundment/Confiscation:

- Authorized by Specific Statutory Authority: No
- Terms Upon Which Vehicle Will Be Released: None
- Other: None Note: Impoundment or surrender of license plates/registration (for 90 dys for a 1st off and 1 yr for a second off) is authorized if vehicle opperator was operating his/her vehicle while they are under license susp or rev for a DWI off. See 21 §2756.
- Miscellaneous Sanctions Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

- State Has Such Law/Type of Offense: Yes, 1st degree (death caused by criminally negligent driving while DWI) Cl D felony 11 §630A; 2nd degree (death caused by (1) criminally negligent driving or (2) negligent driving while DWI) Cl E felony 11 §630
- Sanctions:
  - Criminal Sanction:
    - Imprisonment (Term): 1st degree-10 yrs; 2nd degree-7 yrs; 11 §4205
    - Mandatory Minimum Term: None
    - Fine ($ Range): 1st degree-As the court may order; 2nd degree-As the court may order; 11 §4205
    - Mandatory Minimum Fine: None
  - Administrative Licensing Action:
    - Licensing Authorized and Type of Action: 1st degree-Rev; 2nd degree-Rev; 21 §2732
    - Length of Term of Licensing Withdrawal: 1st degree-4 yrs; 2nd degree-3 yrs
    - Mandatory Action--Minimum Length of License Withdrawal: 1st degree-4 yrs; 2nd degree-3 yrs
    - Other: None

Sanctions Following a Conviction for a DWI Offense:
(continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off-30 dys-6 mos; 2nd and subsequent offs-60 dys-1 yr; 21 §2756
Mandatory Minimum Term of Imprisonment:	1st off-30 dys*; 2nd and subsequent offs -60 dys*; 21 §2756 (*These special sanctions are mandatory where rev was based on vehicle homicide, et al. similar offenses where alcohol use was involved)
Other Criminal Actions Related to Alcohol Use and Driving:	
Fine ($ Range):	1st off-$200-500; 2nd and subsequent offs-$500-1,000; 21 §2756
Mandatory Minimum Fine:	1st off-$500*; 2nd and subsequent offs - $500*; 21 §2756; (*These special sanctions are mandatory where rev was based on vehicle homicide, et al.)
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	1st off-Susp or rev; 2nd and subsequent offs-Susp or rev
Length of Term of License Withdrawal Action:	Original period of susp or rev extended by an equal amount; 21 §2758
Mandatory Term of License Withdrawal Action:	Original period of susp or rev extended by an equal amount
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes, 21 §2801 et seq.
Grounds for Being Declared an Habitual Offender:	3 serious or 10 minor moving violations within a 5-yr period
Term of License Rev While Under Habitual Offender Status:	Rev for 5 yrs if based on serious offs or for 3 yrs if based on minor moving violations
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Misd

Other State Laws Related To Alcohol Use And Driving: (continued)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): 1-5 yrs

Mandatory Minimum Term of Imprisonment: None

Fine ($ Range): None

Mandatory Minimum Fine ($): None

Licensing Actions (Specify): License denied for 5 yrs if the habitual offender status is based on serious offs. License denied for 3 yrs if the habitual offender status is based on minor offs.

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes

BAC Chemical Test Is Given to the the Following Persons:

Driver: Yes

Vehicle Passengers: Yes

Pedestrian: None

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 4 §904(f) (Year Eff: 1983)

Minimum Age (Years) Possession: 21 4 §904(f) (Law does not apply to alcohol use in religious services or in the home.)

Minimum Age (Years) Consumption: 21 (Law does not apply to alcohol use in religious services or in the home.)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation No (See Wright v. Moffitt, 437A 2d 554 (1981). Note especially the statements made on p.559 by the Court on third party injury liability.)

Other: None

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Not specified

Term of Imprisonment: 1 mo 4 §903

Fine ($ Range): Not more than $100 4 §903

STATE - Delaware

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, susp
Length of Term of License Withdrawal: Not specified by statute

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Misd 4 §713
Term of Imprisonment: 30 dys 4 §904
Fine ($ Range): Not more than $100 (or imprisonment) 4 §904

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Susp 4 §561
Length of Term License Withdrawal: Not specified by statute

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
Open Container Law (Yes/No): No
Anti-Consumption Law (Yes/No): No

STATE:	**DISTRICT OF COLUMBIA**
General Comments:	See generally D.C. Code and D.C. Municipal Regulations (DCMR)
Basis for a DWI Charge:	
Illegal Per Se Law (BAC Level):	0.10% §40-716(b)(1)
Presumption (BAC Level):	No
Other:	More than 0.05% constitutes prima facie proof of either driving while under the influence or driving while impaired §40-717.1(2)
Chemical Breath Tests for BAC Level:	
Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §40-502
Other Information:	None
Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):	
Blood:	Yes 40-502
Urine:	Yes 40-502
Other:	None
Adjudication of DWI Charges:	
Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes D.C. Code Ann. §23-103
Sanction for Refusal to Submit to a BAC Chemical Test:	
Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Susp for 12 mos §40-505(a) (Mandatory[1])
Other:	None

---

[1] No occupational hardship license shall be issued; see 18 DCMR 310.7(a)

62

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	Illegal per se/Under the Influence:[1] 1st Off-Not more than 90 dys; 2nd Off-(w/n 15 yrs)-Not more than 1 yr; 3rd and subsequent offs (w/n 15 yrs)-Not more than 1 yr; Impaired:[1] 1st Off-Not more than 30 dys; 2nd Off (w/n 15 yrs)-Not more than 90 dys [2] [See §40-716(b)(1) & (12)]
Mandatory Minimum Term:	None
Fine:	
Amount ($ Range):	Illegal per se/Under the Influence:[1] 1st Off-Not more than $300; 2nd Off (w/n 15 yrs)-Not more than $5,000; 3rd off and subsequent offs (w/n 15 yrs)-Not more than $10,000; Impaired:[1] 1st Off-Not more than $300; 2nd Off (w/n 15 yrs)-Not more than $300[3]
Mandatory Minimum Fine ($):	None
Other Penalties:	
Community Service:	None
Restitution (eg Victim's Fund)	None
Other:	None
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes[4]
UVC Type of Provisions:	None
Other:	None
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Driving under the influence/illegal per se - Rev for all offs; Driving while impaired for any off - Either susp or rev at the discretion of D.C. officials (see D.C. code 40-302(a))

---

[1] See §40-716(b)(1) & (2)

[2] 3rd and subsequent off (w/n[1] 5 yrs) - Not more than 1 yr

[3] 3rd and subsequent off (w/n[1] 5 yrs) - Not more than $5,000

[4] Under Title 18 §302.5 of the D.C. Mun. Regs., the licensing agency may suspend/revoke a driver's license on its own without a DWI Court conviction if there is sufficient evidence to indicate that a person was operating a motor veh while under the influence of intoxicating liquor, for a 1st Admin. Action - Susp 2 to 30 dys; for subsequent Admin Actions - Susp 15 to 90 dys (See Title 18 § 306.1 of the D.C. Mun. Regs.)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.): Driving under the influence/illegal per se: 1st off - 6 mos; 2nd off - 1 yr; 3rd and subsequent offs - 2 yrs; see D.C. Code 40-302(a) and (b); 18 DCMR 301.1 and 306.5; Driving while impaired: 1st off - susp from 2 to 30 dys or rev for 6 mos; Subsequent offs - susp from 15 to 90 dys or rev where the time period is discretionary but must be for definitive period of time; see D.C. Code 40-302(a)

Mandatory Minimum Term of Withdrawal: Driving under the influence/illegal per se, 1st off - 6 mos; 2nd off - 1 yr; 3rd and subsequent offs - 3 yrs (Note: No occupational hardship licenses shall be issued; see 18 DCMR 310.9(a)); Driving while impaired: None (Note: Either a limited license (see 19 DCMR 309.1 et seq.) or a limited occupational hardship license (see 18 DCMR 310.1 et seq.) may be issued.)

Other:
Rehabilitation:
Alcohol Education: None
Alcohol Treatment: None
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): None

Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: No
Terms Upon Which Vehicle Will Be Released: None
Other: None
Miscellaneous Sanctions Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Offense: Yes, negligent homicide, felony §40-713
Sanctions:
Criminal Sanction:
Imprisonment (Term): Not more than 5 yrs

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Minimum Term:	None
Fine ($ Range):	Not more than $5,000
Mandatory Minimum Fine:	None

Administrative Licensing Action:

Licensing Authorized and Type of Action:	Rev §40-716(d)(12) and 18 DCMR 301.1(b) and 306.5
Length of Term of Licensing Withdrawal:	1st off - 6 mos; 2nd off - 1 yr; 3rd and subsequent offs - 2 yrs
Mandatory Action --Minimum Length of License Withdrawal:	1st off - 6 mos; 2nd off - 1 yr; 3rd ans subsequent offs - 2 yrs
Other:	None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):	Not more than 1 yr §40-302(e)
Mandatory Minimum Term of Imprisonment:	None
Fine ($ Range):	Not more than $5,000
Mandatory Minimum Fine:	None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	Rev/Susp
Length of Term of License Withdrawal Action:	Extend the period of susp or rev for an additional period of time which is equal to the length of the original susp or rev period; see D.C Code 40-302 and 18 DCMR 305.1 and 305.5
Mandatory Term of License Withdrawal Action:	Licensing action is mandatory; no occupational license can be granted; see 18 DCMR 310.7(c)

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None

Other State Laws Related To Alcohol Use And Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: None

Sanctions Following a Conviction of Driving While on Habitual Offender Status:
- Imprisonment (Term): None
- Mandatory Minimum Term of Imprisonment: None
- Fine ($ Range): None
- Mandatory Minimum Fine ($): None
- Licensing Actions (Specify): None

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
- State Has Such a Law (Yes/No): No
- BAC Chemical Test Is Given to the Following Persons:
  - Driver: None
  - Vehicle Passengers: None
  - Pedestrian: None

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
- Minimum Age (Years) Sale/Purchase: 18 for beer and light wine*; 21 for all other alcoholic beverages (*Light wine is that which contains 14% or less of alcohol by volume; see §25-103(3).) (Year Eff: 1934) §25-121
- Minimum Age (Years) Possession: N/A
- Minimum Age (Years) Consumption: 18 for beer and light wine*; 21 for all other alcoholic beverages; (*Light wine is that which contains 14% or less of alcohol by volume; see §25-103(3).) (Applies only to consumption by minors on licensed premises.) §25-121

Dram Shop Laws and Related Legal Actions:
- State Has a Dram Shop Law (Yes/No): No
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: Yes, Marusa v. D.C., 484 F. 2d 828 (D.C. Cir., 1973)
- Other: None

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Unspecified but would probably be considered to be a misd
Term of Imprisonment:	Not more than 1 yr
Fine ($ Range):	Not more than $1,000 (D.C. Code §§25-118, 25-121, and 25-132)
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev
Length of Term of License Withdrawal:	For Rev - no new license shall be issued for 1 yr
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Unspecified but would probably be considered to be a misd
Term of Imprisonment:	Not more than 1 yr
Fine ($ Range):	Not more than $1,000
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev
Length of Term License Withdrawal:	For Rev - no new license shall be issued for 1 yr (D.C. Code §§25-118, 25-121, and 25-132)
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes - Driver and passengers §25-128(a)

STATE: **FLORIDA**
General Comments: See Florida Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): **0.10%** 316.193(1)(b) 322.262
Presumption (BAC Level): **0.10%** 322.262
Other: **None**

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: **Yes** 316.1932(b)(1)
Implied Consent Law:
Arrest Required (Yes/No): **Yes** 316.1932(1)(a)
Other Information: Special Note: A blood test may be given a driver without their consent if they have been involved in an accident resulting in death or serious bodily injury; See §316.1933

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Impled Consent Law):

Blood: **Yes** (Only if incapacity renders the breath test impractical or impossible) 322.261
Urine: **No** (Note: Under 316.1932(1)(a) there is an implied consent to submit to a urine test for the purpose of detecting the presence of controlled substances.)
Other: **None**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): **Yes** (Applies only to DWI manslaughter/veh homicide offs; See §316.656)
Anti-Plea Bargaining Statute (Yes/No): **Yes** (Fla. Stat. Ann. §316.656 (Note: Only applies if BAC level is 0.20% or more or DWI/ Manslaughter/Veh Homicide
Pre-Sentencing Investigation Law (PSI) (Yes/No): **No**

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): **None**
Administrative Licensing Action (Susp/Rev): **None**
Other: **None**

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st refusal-Susp for 6 mos (hardship license available); Subsequent refusals-Susp for 1 yr (Mandatory §§322.261 & 322.271(2)
Other:	None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	1st Off-Not more than 6 mos; 2nd Off-Not more than 9 mths [1]
Mandatory Minimum Term:	2nd Off-10 dys if 2nd conviction was w/n 3 yrs of a previous DWI conviction 316.193(4); 3rd and subsequent Off-30 dys if 3rd conviction was w/n 5 yrs of a previous DWI conviction 316.193(4)
Fine:	
Amount ($ Range):	1st Off-$250-500; 2nd Off-$500-1,000; 3rd and subsequent Off-$1,000-5,000[1]
Mandatory Minimum Fine ($):	None
Other Penalties:	
Community Service:	1st off-50 hrs (Required notwithstanding other sanctions)
Restitution (eg Victim's Fund)	None

---

[1] For intoxication/under the influence offences where there has been either property damage or personal injury - Misd of the 1st degree - Not more than 1 yr, not more than $1,000 (Under §316.1931(2), the penalty imposed for this violation shall not be less than the penalties shown above for non-damage/non-injury offs)

For the intoxication/under the influence offs where there has been serious bodily injury and any one of the following: (a) the driver was driving on suspended/revoked license (b) There is a habitual traffic offender (§322.264(1)); or (c) the driver has been a previous §316. 1931(2) convicted, felony if the third degree - Not more than 5 yrs and/or Not more than $5,000; §§ 775.082 and 775.083.

STATE - Florida

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	Special Note: A 5% surcharge is levied on all fines; This surcharge is paid into a crimes compensation trust fund; See §960.25 Alcohol related crash victims are not eligible this fund.
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	None
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st Off (Non injury)-Rev; 1st Off-Intoxication or under the influence offs Bodily injury or property damage-Rev; 2nd Off (All offs)(w/n 5 yrs)-Rev; 3rd Off (All offs)(w/n 10 yrs)-Rev[1]
Term of License Withdrawal (Days, Months, Years, etc.):	1st Off (Non injury)-180 dys-1 yr[3]; 1st Off-Intoxication or under the influence offs, Bodily injury or property damage-Not less than 3 yrs; 2nd Off (All offs)(w/n 5 yrs)-Not less than 5 yrs[2]
Mandatory Minimum Term of Withdrawal:	1st Off-Intoxication or under the influence offs Bodily injury or property damage 3 yrs; 2nd Off (All offs)(w/n 5 yrs)-5 yrs; 3rd Off (All offs)(w/n 10 yrs)-10 yrs; 4th Off (All offs)-10 yrs

---

[1] 4th off - Rev §§322.26 and 322.28 (see especially §322.28(2)(d) and 322.271(2) and (4))

[2] 3rd off (all offs)(w/n 10 yrs) Not less than 10 yrs.
4th off (all offs) - Permanently

[3] A temporary restricted use license for business/employment may be issued for 45 dys following the completion fo either a driver training program or substance abuse course; the law is silent as to whether this license can be renewed for additional 45-day periods.

Special Note: Rev is permanent if an alcohol off is subsequent to a veh manslaughter/homicide off; see §322.28(2)(f) and (4)(j).

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	
Rehabilitation:	
Alcohol Education:	Yes (Required before license can be restored Note: Under §316.193(3) and §322.291 alcohol education/treatment is required for a defendant convicted of any DWI off.)
Alcohol Treatment:	None
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	None
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	None
Other:	None
Miscellaneous Sanctions Not Included Elsewhere:	Special Note: Under §322.291 a defendant may be required to complete a driver training course prior to having their license reinstated

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes, Manslaughter via Veh Felony 2nd degree §782.07; Veh Homicide, felony 3rd degree §782.071
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Manslaughter via veh – Not more than 15 yrs; Vehicle Homicide, Felony 3rd degree-Not more than 5 yrs; §775.082(c) & (d)
Mandatory Minimum Term:	None
Fine ($ Range):	Manslaughter via veh-Not more than $10,000; Veh Homicide-Not more than $5,000; §775.083(1)(b) & (c)
Mandatory Minimum Fine:	None
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Manslaughter via veh-Rev; Veh Homicide-Rev; §322.28(5) (Rev is permanent if the veh manslaughter/homicide off is subsequent to an alcohol driving off; See §322.28(2)(1) & (5)(b))

Sanctions Following a Conviction for a DWI Offense:
(continued)

Length of Term of Licensing Withdrawal: Manslaughter via veh-Not less than 3 yrs; Veh Homicide-Not less than 3 yrs; (It appears that a restricted hardship license could be issued for either offense; See §322.271)

Mandatory Action--Minimum Length of License Withdrawal: None

Other: None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off-Not more than 60 dys (misd 2nd degree); 2nd and subsequent offs §322.34(1)-Not more than 1 yr (misd 1st degree); §775.082

Mandatory Minimum Term of Imprisonment: None

Fine ($ Range): 1st off-Not more than $500; 2nd and subsequent offs-Not more than $1,000; §775.083

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): 1st off-Susp/Rev; 2nd and subsequent offs-Susp/Rev; §322.28(3)

Length of Term of License Withdrawal Action: 1st off-An additional 3 mos; 2nd and subsequent offs-An additional 3 mos

Mandatory Term of License Withdrawal Action: (See §322.271 for basis to issue restricted hardship license)

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes §322.264

Grounds for Being Declared an Habitual Offender: 3 serious or 15 normal moving violations within a 5-yr period

Term of License Rev While Under Habitual Offender Status: 5-yr-Rev Period; (Note: After 12 mos, the offender may have his/her driving privileges restored.) §322.27(5)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Misd of the 1st degree §322.34(2)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not more than 1 yr §775.082
Mandatory Minimum Term of Imprisonment:	None
Fine ($ Range):	Not more than $1,000 §775.083
Mandatory Minimum Fine ($):	None
Licensing Actions (Specify):	Rev period extended an additional 3 mos §322.28(3)

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	None
Vehicle Passengers:	None
Pedestrian:	None
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 §562.11 (yr eff: 1980)
Minimum Age (Years) Possession:	19 (Except for employment purposes) §562.11
Minimum Age (Years) Consumption:	N/A
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes §768.125
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Special Note: Actions under this law are limited to damages caused by selling alcoholic beverages (1) To persons under the legal drinking or (2) To persons habitually addicted to alcohol
Other:	None

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: None (Note: Fla. Stat. Ann. §562.50 makes it illegal to sell or dispose of in any way intoxicating liquors to an individual when the person selling or disposing of such intoxicating liquor has written notice that the person receiving such intoxicating liquor is an habitual drunkard.)

Term of Imprisonment: None

Fine ($ Range): None

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): None

Length of Term of License Withdrawal: None

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd (2nd degree) (Fla. Stat. Ann. § 562.11)

Term of Imprisonment: Not more than 60 dys

Fine ($ Range): Not more than $500

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No): Yes--Susp or rev (Fla. Stat. Ann. § 561.29(1)(a) and (w)

Length of Term License Withdrawal: Time period not specified in the statute

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): No

STATE: **GEORGIA**
General Comments: See Georgia Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): **0.12%** 40-5-391(a)(4) & 40-6-392(a)(4)
Presumption (BAC Level): **0.10%** 40-6-392(b)(3)
Other: **None**

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: **No**
Implied Consent Law:
  Arrest Required (Yes/No): **Yes** 40-5-55
  Other Information: **None**

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: **Yes** 40-5-55
Urine: **Yes** 40-5-55
Other: Or "other bodily substance" (The code does not specify the substances but only uses general language.) 40-5-55

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): **No**
Anti-Plea Bargaining Statute (Yes/No): **No**
Pre-Sentencing Investigation Law (PSI) (Yes/No): **No** (Note: Mandatory only in felony cases.)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): **N/A**
  Administrative Licensing Action (Susp/Rev): **N/A**
  Other: **None**

Refusal to Take Implied Consent Chemical Test
  Criminal Sanction (Fine/Jail): **None**
  Administrative Licensing Action (Susp/Rev): Susp for 6 mos 40-5-55 & 40-5-63(b) (Mandatory)
  Other: Special Note: If the refusal is in connection with a DWI- Homicide charge. The susp period is a mandatory 12 mos; See 40-5-63(b)

STATE - Georgia

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	1st off (Misd)-10 dys-1 yr; 2nd off (w/n 5 yrs)-90 dys-1 yr; 3rd and subsequent offs (w/n 5 yrs) (Misd)-120 dys-1 yr; 40-6-391(c)
Mandatory Minimum Term:	2nd off (Misd)-48 hrs; 3rd and subsequent offs (w/n 5 yrs) (Misd)-10 dys; (Note: See Community Service)
Fine:	
Amount ($ Range):	1st off (Misd)-$300-1,000; 2nd off (w/n 5 yrs) (Misd)-$600-1,000; 3rd and subsequent offs (all w/n 5 yrs)(Misd)-$1,000
Mandatory Minimum Fine ($):	None
Other Penalties:	
Community Service:	2nd off (Misd.)-80 hrs; 3rd and subsequent offs (all w/n 5 yrs)(Misd.)-30 dys (Alternate sanction to the 48 hr/10 day minimum imprisonment terms)
Restitution (eg Victim's Fund)	None
Other:	None
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	None
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off-Susp; 2nd off -Susp; 3rd and subsequent offs (w/n 5 yrs)-Rev 40-5-70(b)(1)(A)(B)(C), 40-5-58 & 40-5-62
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-1 yr; 2nd offs-3 yrs; 3rd and subsequent offs (all w/n 5 yrs)-5 yrs
Mandatory Minimum Term of Withdrawal:	1st off-License may be restored after 120 dys of the susp period have passed[1]; 2nd off (w/n 5 yrs) License may be restored after 120 dys have passed[2]; 3rd and subsequent offs (w/n 5 yrs)-5 yrs

---

[1] Under 40-5-71 a 1st offender may be issued a hardship license; also, under 40-6-391.1 a license susp may be avoided on a 1st DWI off if the defendant pleads nolo contendere to such off; thus, there is really no "mandatory" susp period for a 1st off.

[2] See rehabilitation section

STATE - Georgia

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	
Rehabilitation:	
Alcohol Education:	**Yes,** for 1st and 2nd DWI offenders, the license may be restored before the end of the susp period as indicated provided the defendant completes an approved alcohol or drug program; See 40-5-70.
Alcohol Treatment:	**Yes**
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	**None**
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	**No** (Note: Under Code of Ga. §85-203, only certain illegally parked vehs may be impounded.)
Terms Upon Which Vehicle Will Be Released:	**None**
Other:	**None**
Miscellaneous Sanctions Not Included Elsewhere:	**None**

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	**Yes** 1) Veh homicide where there is no "Malice aforethought" via a violation of §§40--6-271,40-6-390 & 40-6-391 (veh homicide in the first degree) -[1]

---

[1] 2) Veh homicide where the death is caused "without an intention to do so" (Veh Homicide in the Second Degree); 3) Veh Homicide where the defendant is an habitual violator, his/her license has been revoked, and there is no "Malice Aforethought" (Veh Homicide in the First Degree) 40-6-393

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions:

Criminal Sanction:

Imprisonment (Term): 1) 2-15 yrs[1] 2) Not more than 12 mos[2] 3) 5 yrs[3]

Mandatory Minimum Term: 3) 1 yr[3]

Fine ($ Range): 2) Not more than $1,000[2]

Mandatory Minimum Fine: None

Administrative Licensing Action:

Licensing Authorized and Type of Action: 1) Susp[1] 2) Susp[2] 3) Susp[3]

Length of Term of Licensing Withdrawal: 1) 3 yrs[1] 2) 3 yrs[2] 3) 3 yrs[3], 40-5-64(f)

Mandatory Action--Minimum Length of License Withdrawal: 1) 3 yrs[1] 2) 3 yrs[2] 3) 3 yrs[3]

Other: None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 2 dys-6 mos (Misd)

Mandatory Minimum Term of Imprisonment: None

Fine ($ Range): Not more than $500

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp/Rev 40-5-121(b)

Length of Term of License Withdrawal Action: Original susp or rev period is extended 1 yr

Mandatory Term of License Withdrawal Action: Original susp or rev period is extended 1 yr

---

[1] Veh homicide where there is no "Malice aforethought" via a violation of §§40-6-271, 40-6-390 and 40-6-391 (alcohol offs)

[2] Veh homicide where the death is caused "without an intention to do so" (Veh Homicide in the Second Degree)

[3] Veh Homicide where the defendant is an habitual violator, his/her license has been revoked, and there is no "Malice Aforethought" (Veh Homicide in the First Degree) 40-6-393

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:	
State Has Such Law (Yes/No):	**Yes** 40-5-58(c) (Note: Previous code citation was 68B-308)
Grounds for Being Declared an Habitual Offender:	3 serious violations alone or a combination of 15 serious/minor moving violations within a 5 yr period
Term of License Rev While Under Habitual Offender Status:	**5-yr rev period** 40-5-62(a)(1) (Note: A probationary restricted hardship license may be issued after two yrs of the rev period has passed; 40-5-58(c))
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	**Felony** 40-5-58(c)
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	1-5 yrs
Mandatory Minimum Term of Imprisonment:	**None**
Fine ($ Range):	Not less than $750
Mandatory Minimum Fine ($):	None
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	**Yes**
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	**Yes** 21.205
Vehicle Passengers:	**Yes** 21.205
Pedestrian:	**Yes** 21.205
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 (Year Eff: 1980) §5A-510(a)(1) & (12)
Minimum Age (Years) Possession:	19 (Exceptions: Medical purposes; religious ceremonies, home use and with parental consent, and a person 18 yrs or older in the U.S. Armed Forces)
Minimum Age (Years) Consumption:	N/A

STATE - Georgia

Other State Laws Related To Alcohol Use And Driving: (continued)

Dram Shop Laws and Related Legal Actions:
State Has a Dram Shop Law (Yes/No): No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): No
Other: None

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
Type of Criminal Action: Misd Acts 1980, pp. 1573, 1649
Term of Imprisonment: Not more than 12 mos
Fine ($ Range): Not more than $1,000

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Susp or cancellation
Length of Term of License Withdrawal: 2 yrs

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Misd Act 1980 pp. 1573, 1649
Term of Imprisonment: Not more than 12 mos
Fine ($ Range): Not more than $1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, susp or cancellation
Length of Term License Withdrawal: 2 yrs

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
Open Container Law (Yes/No): No
Anti-Consumption Law (Yes/No): No

STATE:	HAWAII
General Comments:	See Hawaii Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §291-4(a)(2)
Presumption (BAC Level):	None
Other:	0.10% or more is considered competent evidence of driving under the influence if the chemical test was taken within 3 hrs of a DWI violation. §291-5(a)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §286-151
Other Information:	Special Note: It appears that either a blood or breath test may be given a driver without their consent in order to obtain evidence of their intoxication if they are involved in an accident resulting in injury to or death to another person; §286-163

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	No
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes 2nd & 3rd DWI offs §291-4(c)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test
- Criminal Sanction (Fine/Jail): No
- Administrative Licensing Action (Susp/Rev): Rev for 12 mos (§§286-155) (Mandatory)
- Other: None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:
- Imprisonment: 1st off-48 hrs [1]; 2nd off (w/n 5 yrs of a previous conviction)-48 hrs of cons imprisonment; 3rd off (w/n 5 yrs of two previous convictions) §291-4 - 10-180 dys
- Mandatory Minimum Term: 2nd off (w/5 yrs of a previous conviction)-48 cons hrs
- Fine:
  - Amount ($ Range): 1st off-$150-1,000 [1]; 2nd off (w/n 5 yrs of a previous conviction)-$500-1,000 [1]; 3rd off (w/n 5 yrs of two previous convictions)-$500-1,000[1]
  - Mandatory Minimum Fine ($): None
- Other Penalties:
  - Community Service: 1st off-72 hrs [1]; 2nd off (w/n 5 yrs of a previous conviction)-10 dys (As an alternative to imprisonment)
  - Restitution (eg Victim's Fund) None
  - Other: None

Administrative Licensing Actions:
- Pre-DWI Conviction Licensing Action:
  - Administrative Per Se Law: None
  - UVC Type of Provisions: None
  - Other: None
- Post DWI Conviction Licensing Action:
  - Type of Licensing Action (Susp/Rev): 1st off-Susp; 2nd off-Susp; 3rd off-Rev §291-4
  - Term of License Withdrawal (Days, Months, Years, etc.): 1st off-90 dys; 2nd off-1 yr; 3rd off-1-5 yrs
  - Mandatory Minimum Term of Withdrawal: 1st off-30 dys with a restricted license for 60 dys; 2nd off-1 yr

---

[1] The Court must sentence a person convicted of a 1st DWI off to at least one of these sanction, but it has the authority to sentence such person to more than one such sanction.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	
Rehabilitation:	
Alcohol Education:	1st off - A mandatory 14 hr alcohol abuse education/counseling program.
Alcohol Treatment:	None
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	None
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	None
Other:	None
Miscellaneous Sanctions Not Included Elsewhere:	None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes--2 types of offs 1) Death caused by negligent veh operation (homicide in the first degree) a Cl C felony 2) Death caused by simple negligence--homicide in the second degree) a misd
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Death caused by negligent veh operation (homicide in the 1st degree) a Cl C felony-Not more than 5 yrs; Death caused by simple negligence--homicide in the 2nd degree) a misd-Not more than 1 yr (Hawaii Rev. Stat. §§707-703 and 707-704)
Mandatory Minimum Term:	To be determined by the paroling authority via special procedures (Hawaii Rev. Stat. §§707-703 and 707-704)
Fine ($ Range):	Death caused by negligent veh operation (homicide in the 1st degree) a Cl C felony Not more than $5,000 Death caused by simple negligence--homicide in the 2nd degree) a misd Not nor than $1,000 (Hawaii Rev. Stat. §§707-703 and 707-704)
Mandatory Minimum Fine:	None

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:

Licensing Authorized and Type of Action: Death caused by negligent veh operation (homicide in the first degree) a Cl C felony-Rev[1]; Death caused by simple negligence--homicide in the second degree) a misd-Rev[1]

Length of Term of Licensing Withdrawal: Death caused by negligent veh operation (homicide in the first degree) a Cl C felony-Not less than 1 yr; Death caused by simple negligence--homicide in the second degree) a misd-Not less than 1 yr

Mandatory Action--Minimum Length of License Withdrawal: None

Other: None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Misd not more than 1 yr

Mandatory Minimum Term of Imprisonment: None

Fine ($ Range): $250-1,000

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Discretionary license susp or rev

Length of Term of License Withdrawal Action: If susp - not more than 1 yr; If rev - not less than 1 yr

Mandatory Term of License Withdrawal Action: None

---

[1] Mandatory rev in the statute applies to a conviction of the driver for manslaughter; the statute does not state in a definitive manner whether veh homicide is manslaughter; see §286-124 and 286-126.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

- State Has Such Law (Yes/No): No
- Grounds for Being Declared an Habitual Offender: None
- Term of License Rev While Under Habitual Offender Status: None
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: None

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

- Imprisonment (Term): None
- Mandatory Minimum Term of Imprisonment: None
- Fine ($ Range): None
- Mandatory Minimum Fine ($): None
- Licensing Actions (Specify): None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

- State Has Such a Law (Yes/No): Yes (Hawaii Rev. Stat. §841-3)
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Yes
  - Vehicle Passengers: Yes
  - Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

- Minimum Age (Years) Sale/Purchase: 18 (yr eff; 1972) §§281-1:281-78 & 281-101.5
- Minimum Age (Years) Possession: 18 (Law applies to motor vehs and public places; employment situations and to religious ceremonies excluded.) §§281-1: 281-78 & 281-101.5
- Minimum Age (Years) Consumption: N/A (Liquor cannot be consumed by anyone on a public highway or a public sidewalk.)

Other State Laws Related To Alcohol Use And Driving: (continued)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: Yes, Ono v. Applegate: 612 P.2d 533 (1980)

Other: None

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd

Term of Imprisonment: Not more than 6 mos (Hawaii Rev. Stat., §§281-78, 281-91 and 281-102)

Fine ($ Range): Not more than $500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Susp or rev

Length of Term of License Withdrawal: Not specified in the statute (Note: A civil penalty of not more than $500 may be assessed in lieu of license susp or rev.)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd

Term of Imprisonment: Not more than 6 mos

Fine ($ Range): Not more than $500 (Hawaii Rev. Stat. §§281-78, 281-91, and 281-10 & (Ch. 712)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, susp or rev

Length of Term License Withdrawal: Not specified in the statute (Note: A civil penalty of not more than $500 may be assessed in lieu of license susp or rev.) (Hawaii Rev. Stat. §§281-78, 281-91, and 281-10 & Ch. 712)

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	**Yes** (Hawaii Rev. Stat. §§281-78, 281-91, and 281-10 & (CH.712) §291-3.3
Anti-Consumption Law (Yes/No):	**Yes**- Driver and passenger (The law states that liquor shall not "Be consumed on any public highway or any public sidewalk")

STATE: IDAHO
General Comments: See General Laws of Idaho Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% §18-8004(1)
Presumption (BAC Level): >0.08% 18-6901
Other: No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
  Arrest Required (Yes/No): No
  Other Information: The police need only reasonable grounds of an alcohol off before the implied consent law is applicable; See §18-8002(1); However, see §18-8002(4)(b) which appears to indicate that probable cause is needed

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes[1]
Urine: Yes
Other: Other bodily substance[1]; e.g., saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes 18-8005(5)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): N/A
  Administrative Licensing Action (Susp/Rev): N/A
  Other: N/A

---

[1] The law refers to an evidentiary test for BAC levels without specifying the bodily substance to be tested; See §18-800201.

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

- Criminal Sanction (Fine/Jail): No
- Administrative Licensing Action (Susp/Rev): 120 dys susp (Mandatory) §18-8002(4)(b)
- Other: None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

- Imprisonment: 1st off-Not more than 6 mos; 2nd off (w/n 5 yrs) misdemeanor-10 dys to 1 yr; 3rd off (w/n 5 yrs) Felony-Not more than 5 years; Aggravated DWI where there is bodily harm/disfigurement[2]-Not more than 5 years
- Mandatory Minimum Term: 1st off Misd-None; 2nd off (w/n 5 yrs) Misd- 10 dys[1]; 3rd off (w/n 5 yrs) Felony-30 dys[1]; Aggravated DWI off where there is bodily harm/disfigurement[2]-30 dys
- Fine:
  - Amount ($ Range): 1st off Misd-Not more than $1,000; 2nd off (w/n 5 yrs) Misd-Not more than $2,000; 3rd off (w/n 5 yrs) Felony-Not more than $5,000; Aggravated DWI off where there is bodily harm/disfigurement[2]-Not more than $5,000
  - Mandatory Minimum Fine ($): None
- Other Penalties:
  - Community Service: None
  - Restitution (eg Victim's Fund) Aggravated DWI off where there is bodily harm/disfigurement[2]-Yes (§18-8006(1)(e)
  - Other: None

Administrative Licensing Actions:

- Pre-DWI Conviction Licensing Action:
  - Administrative Per Se Law: None
  - UVC Type of Provisions: Yes §49-330
  - Other: None

---

[1] See State v. McCoy, 468 P.2d 247 (1971) in which the Idaho Supreme Court voided a statute requiring mandatory sanctions.

[2] If the offender is a minor (a person under 18 years old), their license is suspended or denied for either an additional 1 year or until the person reaches 18 which ever period is longer or following the end of any period of susp or rev ; See § 18-8005(7)

STATE - Idaho

Sanctions Following a Conviction for a DWI Offense:
(continued)

Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off-Susp[3]; 2nd off-Susp[3]; 3rd off-Susp[3]; Aggravated DWI off §§18-8005 & 18-8006-Susp
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-Not more than 180 dys; 2nd off- 6 mos-1 year after release from confinement; 3rd off- 1-5 years after release fr confinement; Aggravated DWI off - 1-5 years after release from confinement §§18-8005 & 18-8006
Mandatory Minimum Term of Withdrawal:	1st off -None [1]; 2nd off-30 dys after release from confinement[2]; 3rd off-1 year after release from confinement; Aggravated DWI off-1 year after release from confinement §§18-8005 & 18-8006
Other:	
Rehabilitation:	
Alcohol Education:	None
Alcohol Treatment:	A DWI offender may be referred for participation in retraining and/or rehabilitation program by a driver improvement counselor, a judge, a district court magistrate, or the hearing officer of the Department of Law Enforcement
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	None

---

[1] A Restricted license may be for reasons of employment.

[2] After the 30 day mandatory period, a restricted license may be issued for reasons of employment for the balance of the 6 mo minimum susp period.

[3] If the offender is a minor (a person under 18 years old), their license is suspended or denied for either an additional 1 year or until the person reaches 18 which ever period is longer or following the end of any period of susp or rev ; See § 18-8005(7)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: No
Terms Upon Which Vehicle Will Be Released: None
Other: None
Miscellaneous Sanctions Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Offense: Yes--2 types of offs (1) Veh manslaughter--death as a result either (1) of an unlawful act not amounting to a felony where gross negligence is involved; or of a DWI off; (2) Death as a result of an unlawful act not amounting to a felony where there is no gross negligence. §18-4006(3)

Sanctions:
Criminal Sanction:
Imprisonment (Term): (1) Veh manslaughter--death as a result of either gross negligence or of a DWI off-Not more than 7 years;
(2) Death as a result of an unlawful act not amounting to gross negligence - Not more than 1 year §18-4007(3)
Mandatory Minimum Term: None
Fine ($ Range): (1) Veh manslaughter--death as a result either gross negligence or of a DWI off-Not more than $7,000;
(2) Death as a result of an unlawful act not amounting to gross negligence - Not more than $2,000
Mandatory Minimum Fine: None

Administrative Licensing Action:
Licensing Authorized and Type of Action: (1) Veh manslaughter--death as a result either gross negligence or a DWI offs;
(2) Death as a result of an unlawful act not amounting to gross negligence - Rev §49-329
Length of Term of Licensing Withdrawal: (1) Veh manslaughter--death as a result either gross negligence is involved;
(2) Death as a result of an unlawful act not amounting to gross negligence - Not less than 1 yr §49-331

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Action--Minimum Length of License Withdrawal: (1) Veh manslaughter--death as a result either gross negligence or of a DWI offs; (2) Death as a result of an unlawful act not amounting togross negligence - 1 year

Other: Note: The law specifically states that a temporary restricted license cannot be issued following revs based on veh manslaughter.

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off Misd-Not less than 2 dys to 6 mos; 2nd off Misd (w/n 5 years)-20 dys to 1 yr (w/n 12 mos); 3rd and subsequent offs (w/n 5 years)(felony)-Not more than 3 yrs, 18-8001

Mandatory Minimum Term of Imprisonment: 1st off Misd-2 dys; 2nd off Misd (w/n 5 years)-20 dys; 3rd and subsequent offs (w/n 5 years)(felony)-30 dys

Fine ($ Range): 1st off Misd-Not more than $500; 2nd off Misd (w/n 5 years) Not more than $1,000; 3rd and subsequent offs (w/n 5 years)(felony)-Not more than $3,000

Mandatory Minimum Fine: None

Special Note: If a person is convicted of an alcohol driving off and such person had no driving privileges at the time of arrest, the penalties imposed under §18-8001 are in addition to any penalties imposed for an alcohol driving off conviction.

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): 1st off Misd-Susp; 2nd off Misd (w/n 5 years)-Susp; 3rd and subsequent offs (w/n 5 years)(felony) 18-8001 - Rev §49-337

Length of Term of License Withdrawal Action: 1st Off Misd-License susp for an additional 6 mths[1];-2nd Off Misd (w/n 5 yrs)-License susp for an additional 1 yr; 3rd and subsequent offs (w/n 5 yrs)(felony)-License revoked for an additional 3 yrs, 18-8001

Mandatory Term of License Withdrawal Action: 2nd off Misd (w/n 5 years) additional-1 yr; 3rd and subsequent offs (w/n 5 years)(felony)-an additional 3 years, 18-8001

---

[1] Restricted licenses available for employment reasons or family health needs.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:
- State Has Such Law (Yes/No): No
- Grounds for Being Declared an Habitual Offender: N/A
- Term of License Rev While Under Habitual Offender Status: N/A
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A
- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): N/A
  - Mandatory Minimum Term of Imprisonment: N/A
  - Fine ($ Range): N/A
  - Mandatory Minimum Fine ($): N/A
  - Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
- State Has Such a Law (Yes/No): Yes
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Yes §49-1016
  - Vehicle Passengers: No
  - Pedestrian: Yes §49-1016

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
- Minimum Age (Years) Sale/Purchase: 19 §23-312 (Year Eff: 1972)
- Minimum Age (Years) Possession: 19 §23-949
- Minimum Age (Years) Consumption: 19 §23-949

Dram Shop Laws and Related Legal Actions:
- State Has a Dram Shop Law (Yes/No): No
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation Yes, Alegria v. Payonk, 619 P.2nd 135 (1980)
- Other: No

STATE - Idaho

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd §23-605
Term of Imprisonment:	3 mos-1 yr
Fine ($ Range):	$300-1,000

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, but may pay $5,000 for 1st off in lieu of susp.
Length of Term of License Withdrawal:	Statute has no stated time period.

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Misd for 1st off; Felony-2nd and subsequent §23-603
Term of Imprisonment:	Misd for 1st off - 3 mos to 1 year; Felony 2nd and subsequent 5 years
Fine ($ Range):	Misd for 1st off - $300-1,000; Felony-2nd and subsequent $5,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes but may pay $5,000 for 1st off in lieu of susp
Length of Term License Withdrawal:	Indeterminate (statute has no specific time period) §23-933

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes §23-933
Anti-Consumption Law (Yes/No):	No

STATE: **ILLINOIS**
General Comments: See Smith/Hurd Illinois Annot. Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): **0.10%** Ch. 95 1/2 §11-501(a)(1)
Presumption (BAC Level): **0.10%** Ch. 95 1/2 §11-501.2(b)(3)
Other: **None**

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: **No**
Implied Consent Law:
  Arrest Required (Yes/No): **Yes** Ch. 95 1/2 §11-501.1
  Other Information: **None**

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: **Yes** Ch. 92 1/2 §11-501.1
Urine: **Yes** Ch. 95 1/2 §11-501.1
Other: **None**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): **No**
Anti-Plea Bargaining Statute (Yes/No): **No**[1]
Pre-Sentencing Investigation Law (PSI) (Yes/No): **No**

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): **N/A**
  Administrative Licensing Action (Susp/Rev): **N/A**
  Other: **None**

---

[1] Note: A defendant cannot obtain deferred judgement and be placed on supervision by pleading guilty to or by stipulating facts supporting the conviction of a DWI off charge, if such defendant has either been convicted of of has received supervision for a prior DWI off within 5 (five) yrs of the charged one; see Ch. 38 secs. 1005-6-1(c) and 1005-6-1(d)).

STATE - Illinois

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st refusal-Susp for 6 mos; 2nd or subsequent refusal (w/n 5 yrs)-Susp for 12 mos; (Note: A hardship license may be issued) Ch. 951/2 §§6-206 and 11-501.1 (c)
Other:	None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	1st off-Less than 1 yr; 2nd and subsequent offs (w/n 5 yrs)-Less than 1 yr; Ch. 38 §1005-8-3(a)(1) Note: A DWI off is a Cl A Misd; see ch. 951/2 §11-501
Mandatory Minimum Term:	2nd and subsequent offs (w/n 5 yrs)-48 cons hrs (Ch 38 secs. 1005-5-3(c)(3) & 1005-6-1(d)(ref; P.A 83-204 and PA. 83-207)
Fine:	
Amount ($ Range):	1st off-Not more than $1,000; 2nd and subsequent offs (w/n 5 yrs)-Not more than $1,000; Ch 38 §1005-9-1(or 2)
Mandatory Minimum Fine ($):	None
Other Penalties:	
Community Service:	2nd and subsequent offs (w/n 5 yrs)-yes, See Ch 38 dd1005-3(b)(7) & 1005-5-6, a minimum of 10 dys (Alternative to the term of 48 cons hrs of mandatory imprisonment)
Restitution (eg Victim's Fund)	Yes, for all offs; see Ch. 38 §§ 1005-5-31(b)(7) and 1005-5-b
Other:	None
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	No
UVC Type of Provisions:	Yes
Other:	None

Special Note: Driving a school bus while DWI while the bus is occupied by school children is a Cl 4 Felony; imprisonment from 1 to 3 yrs and/or a fine of not more than $10,000; restitution may be required; see Ch. 951/2 11-501(d) and Ch. 38 1005-8-1(a)(7) and 1005-9-1(a)(i).

STATE - Illinois

Sanctions Following a Conviction for a DWI Offense:
(continued)

Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	For all offs - Rev CH 951/2 §§6-205, 6-208 and 11-501
Term of License Withdrawal (Days, Months, Years, etc.):	For all offs - Not less than 1 yr (Note: A hardship license may be issued)
Mandatory Minimum Term of Withdrawal:	None
Other:	
Rehabilitation:	
Alcohol Education:	None
Alcohol Treatment:	None
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	None
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	None
Other:	None
Miscellaneous Sanctions Not Included Elsewhere:	Special Note: Under §§1005-6-1 & 1005-6-3.1 of the United Code of Corrections, a DWI offender may be placed in a Court supervised diversion program; however, he cannot be placed if the offender has had a prev. DWI conviction or have been in such a diversion program within a 5-yr period of the charged off.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes, Cl 4 felony - Reckless homicide (Note: Death must be the result of reckless action of the accused driver)
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	1-3 yrs
Mandatory Minimum Term:	None
Fine ($ Range):	Not more than $10,000
Mandatory Minimum Fine:	None

Other Criminal Actions Related to Alcohol Use and Driving:

Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev
Length of Term of Licensing Withdrawal:	1 yr
Mandatory Action--Minimum Length of License Withdrawal:	1 yr (Note: A restricted license may be issued.)
Other:	None
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Cl A misdemeanor-Less than 1 yr; Ch.38 §1005-8-3(a)(1), Illinois Ann. Stat. Ch 95 1/2 §6-303
Mandatory Minimum Term of Imprisonment:	7 cons dys (Note: Alternatively, the defendant may be sentenced to 30 dys of community service.) Ch. 38 §1005-5-3(c)(3) (ref; P.A.. 83-206)
Fine ($ Range):	Not more than $1,000 Ch. 38 §1005-9-1(a)(2)
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp or rev
Length of Term of License Withdrawal Action:	If the original charge is based on a susp, the susp is extended an additional period of time equal to that if the original susp. If the original charge is based on a rev, the rev is extended 1 yr.
Mandatory Term of License Withdrawal Action:	Same as above
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	None
Term of License Rev While Under Habitual Offender Status:	None

Other State Laws Related To Alcohol Use And Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	None
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	None
Fine ($ Range):	None
Mandatory Minimum Fine ($):	None
Licensing Actions (Specify):	None
Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes Ch. 95 1/2 §1-501.1 Ch. 31 §10
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 43-131 (yr eff:1980)
Minimum Age (Years) Possession:	21 (Ch. 43, Para. 134a §6-20)
Minimum Age (Years) Consumption:	21 (There are exemptions for religious ceremonies and for home use) (Ch. 43, Para. 134a §6-20)
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes 43-135
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes, Colligan v. Cousar, 38 Ill. App. 2d 392, 187 N.E. 2d 292 (1963)
Other:	None
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Cl B Misd 43-131
Term of Imprisonment:	Not more than 6 mos
Fine ($ Range):	Not more than $1,000 43-148

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, rev
Length of Term of License Withdrawal: 1 yr

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Cl B Misd
Term of Imprisonment: Not more than 6 mos
Fine ($ Range): Not more than $1,000 43-149

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, Rev 43-149
Length of Term License Withdrawal: 1 yr

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
Open Container Law (Yes/No): Yes Ch. 95 1/2 §11-502
Anti-Consumption Law (Yes/No): No

STATE: **INDIANA**
General Comments: See Burn's Indiana Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% (Ind. Code 9-11, Ch. 2, Sec.1)
Presumption (BAC Level): N/A
Other: 0.10% BAC is also prima facie evidence of intoxication (Ind. Code 9-11, Ch. 1, Sec. 7)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes
Implied Consent Law:
  Arrest Required (Yes/No): No (See 9-11-4-2)
  Other Information: See also Clark v. State, 372 N.E. 25185 (Ind. 1978 (where no arrest is required)

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: Yes
Other: Any other bodily substance IC9-11-4-1

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): N/A
  Administrative Licensing Action (Susp/Rev): N/A
  Other: None

Refusal to Take Implied Consent Chemical Test
  Criminal Sanction (Fine/Jail): No
  Administrative Licensing Action (Susp/Rev): 1-yr susp (mandatory) 9-11-4-9(a)
  Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1. Illegal per se (Cl C misd) - Not more than 60 dys IC9-11-21, IC35-50-3-4; 2. Intoxicated off (Cl A misd) - Not more than 1 yr IC9-11-2-2, IC(-50-3-2; 3. Either 1 or 2 above if there has been a previous intoxicated off, (Cl D felony) - A fixed term of 2 yrs IC9-11-23; 4. Violation of either 1 or 2 above where there has been a serious injury, (Cl D felony) - A fixed term of 2 yrs IC9-11-24, IC35-50-2-7; 5. Violation of either 1 or 2 above where there has been a death (Cl C felony) - A fixed term of 5 yrs IC(-11-2 et. seq. and IC35-50-2-6.
Mandatory Minimum Term:	1. Illegal per se off (Cl C misd) - None IC9-11-21; 2. Intoxicated off (Cl A misd) - None IC9-11-2-2; 3. Either 1 or 2 above if there has been a previous intoxicated off (Cl B felony) - 5 dys of which 48 hrs must be served consecutively IC9-11-23, IC9-11-3-4(a) and (b); 4. See footnore 1; 5. See footnote 2
Fine:	
Amount ($ Range):	1. Illegal per se off (Cl C misd) - Not more than $500 IC(-11-21; 2. Intoxicated off (Cl A misd) - Not more than $5,000 IC(-11-2-2; 3. Either 1 or 2 above if there has been a previous intoxicated off (Cl b felony) - Not more than $10,000 IC9-11-23; 4. Violation of either 1 or 2 above where ther is serious injury (Cl D felony) - Not more than $10,000 IC9-11-24; 5. Violation of either 1 or 2 above where there is a death (Cl C felony) - Not more than $10,000 IC9-11-25
Mandatory Min. Fine ($):	None

---

[1] DWI sanctions apply to anyone over 16 yrs old; see IC31-6-2-1(6)(1)

[2] There is a mandatory imprisonment term of 5 dys (of which 48 hrs must be served cons or 10 dys of community service if the defendant has been convicted of a previous DWI off within a 5 yr period; see IC9-11-3-4.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other Penalties:	
Community Service:	3. Either illegal per se off (Cl C misd) or intoxicated off (Cl A misd) if there has been a previous intoxicated off (Cl B felony) - 10 dys as an alternative to imprisonment IC9-11-23
Restitution (eg Victim's Fund)	N/A
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes (for all offs) for 0.10% (prima facie evidence) BAC susp up to 180 dys or until the DWI charges have been disposed of which ever occurs first. IC9-11-4-9(b)
UVC Type of Provisions:	Yes
Other:	If DWI charges are deferred, a driver's license is to be suspended for at least 90 dys but not more than two (2) yrs. 30 dys are mandatory. IC16-13-6.1-15.1(6)
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Sus - All off
Term of License Withdrawal (Days, Months, Years, etc.):	1. Illegal per se off (Cl C misd) - 90 dys to 2 yrs; 2. Intoxicated off (Cl A misd) - 90 dys to 2 yrs; 3. Either 1 or 2 above if there has been a previous intoxicated off (Cl B felony) - 1 to 2 yrs; 4. Violation of either 1 or 2 above where there is serious injury (Cl D felony)- 1 to 2 yrs; 5. Violation of either 1 or 2 above where there is a death (Cl C felony) - 1 to 2 yrs; IC9-11-21, 22, 23, 24, 25
Mandatory Minimum Term of Withdrawal:	1. Illegal per se off (Cl C misd) -30 dys ;[1] 2. Intoxicated off (Cl A misd) - 30 dys; 3. Either 1 or 2 above if there has been a previous intoxicated off (Cl B felony) - 1 yr; 4. Violation of either 1 or 2 above where there is serious injury (Cl D felony) - 1 yr; 5. Violation of either 1 or 2 above where there is a death (Cl C felony) - 1 yr; IC9-9-11-21, 22, 23, 24, 25

103

Sanctions Following a Conviction for a DWI Offense: (continued)

Other:

- Rehabilitation:
  - Alcohol Education: Yes[2]
  - Alcohol Treatment: Yes[2]
  - Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): Yes[2]
- Vehicle Impoundment/Confiscation:
  - Authorized by Specific Statutory Authority: No
  - Terms Upon Which Vehicle Will Be Released: N/A
  - Other: N/A
  - Miscellaneous Sanctions Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

- Homicide by Vehicle:
  - State Has Such Law/Type of Offense: No

---

[1] A restricted license may be issued after the 30-dy period - if a person does not have a previous driving while intoxicated conviction or has not refused to submit to a chemical test, they may be granted probationary restricted driving privileges for 180 dys after the mandatory susp period; see §9-11-3-1(b), (c), and (d)

[2] For a first DWI off, the defendant may, as a condition of probation, be evaluated and treated for alcohol-related problems. The law does not specifically extend such evaluation and treatment to second DWI offenders. In addition, for any misd in which alcohol abuse is a factor, the Court may take judicial notice that an alcohol training/rehabilitation program may reduce antisocial behavior; if a defendant satisfactorily completes such a program the charges against him/her shall be dismissed; however, licensing susps still apply. A defendant is eligible to participate only once in this type of program.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions:
Criminal Sanction:
Imprisonment (Term): N/A

Mandatory Minimum Term: N/A
Fine ($ Range): N/A
Mandatory Minimum Fine: N/A

Administrative Licensing Action:
Licensing Authorized and Type of Action: N/A
Length of Term of Licensing Withdrawal: N/A
Mandatory Action--Minimum Length of License Withdrawal: N/A
Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
Sanction:
Criminal:
Imprisonment (Term): Cl A misd - Not less than 2 dys to 6 mos
Mandatory Minimum Term of Imprisonment: 60 dys
Fine ($ Range): Not more than $500
Mandatory Minimum Fine: No
Administrative Licensing Actions:
Type of Licensing Action (Susp/Rev): If based on susp, an additional mandatory susp period for a like period; a mandatory 1-yr extension of the rev period.
Length of Term of License Withdrawal Action: See the statement above.
Mandatory Term of License Withdrawal Action: See the statement above.

Habitual Offender Laws:
State Has Such Law (Yes/No): Yes
Grounds for Being Declared an Habitual Offender: 2 convictions (w/n 10 yrs) for very severe offs as in IC9-12-1-4(b); 3 convictions (w/n 10 yrs) for major offs as listed in IC9-12-1-4(c); 10 convictions for any moving violations (w/n 10 yrs) (however, one of these must have been a conviction for an off listed in either IC9-12-1-4(b) or IC9-12-1-4(c), IC9-12-1-4(d).)

STATE - Indiana

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While Under Habitual Offender Status:	2 convictions - 10 yr susp; 3 convictions - 10 yr susp; 10 convictions (moving violations) - 5 yr susp (A restricted license may be issued under certain limited conditions, see IC9-112-2-5)
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	2 convictions - Cl D Felony; 3 convictions - Cl D Felony; 10 convictions - Cl D Felony
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not less than 1 yr nor more than 5 yrs; Court may suspend up to 180 dys of the sentence.
Mandatory Minimum Term of Imprisonment:	180 dys
Fine ($ Range):	No
Mandatory Minimum Fine ($):	No
Licensing Actions (Specify):	Forfeiture of license for life

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1934) §7.7-5-7-7
Minimum Age (Years) Possession:	21
Minimum Age (Years) Consumption:	21

---

[1] A probationary license may be issued after five (5) yrs of the susp period have passed.

Other State Laws Related To Alcohol Use And Driving: (continued)

Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes, Elder v. Fisher, 217 N.E. 2nd 847 (1966) and Parrett v. Labamoff, Ind. App., 408 N.E. 2d 1344 (1980)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Cl B Misd; §§7.1-5-1-8, 7.1-5-10-15, and 35-50-3-3
Term of Imprisonment:	Not more than 180 dys
Fine ($ Range):	Not more than $1,000 (Note: An administrative fine of not more than $500 may also be imposed; see §7.1-3-23-3)
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes; §§7.1-3-23-2 and 7.1-3-23-5
Length of Term of License Withdrawal:	No period specified in the statute
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Cl C Misd §§7.1-5-7-8 and 35-50-3-4
Term of Imprisonment:	Not more than 60 dys
Fine ($ Range):	Not more than $500 (Note: An administrative fine of not more than $500 may also be imposed; see §7.1-3-23-3)

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes; §§7.1-3-23-2 and 7.1-3-23-5
Length of Term License Withdrawal:	For revs, no period is specified in the statute; see §7.1-3-23-6 for the susps, not more than 30 dys; see §71.-3-23-7.

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

STATE: IOWA
General Comments: Iowa Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.13% §321.281(1)(b)
Presumption (BAC Level): 0.10% §321.281(8)
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes Note: Applies only where there has been an injury or death related accident. §321B.3.

Implied Consent Law:
Arrest Required (Yes/No): No Special Note: Arrest may be a prior condition to an implied consent test under certain circumstances but is not required in all conditions; see §321B.4.
Other Information: A person may be req'd to submit to a chem. test via a search warrant issued pursuant to an invest. of invol. manslaughter (§707.5) where a traffic accident has resulted in a death or in a personal injury likely to cause death and there is evidence of a DWI off; see §321B.14

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 321B.4
Urine: Yes 321B.4
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes (Under §321.281 for a 2nd or subsequent DWI conviction, a defendant must undergo substance abuse evaluation) See also §§901.1 et. seq.

STATE - Iowa

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Rev, 1st refusal - 240 dys; 2nd and subsequent refusals - 540 dys (A restricted license for employment/treatment purposes may be issued after 360 dys of the rev have elapses) 321B.13
Other:	If a defendant is subject to license rev under the implied consent law but pleads guilty to a DUI charge, they may be issued a restricted lic. for the implied consent law rev.; the restricted lic. may only be used for treatment/employment purposes.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	0.10 presump. off and 0.13 per se off, 1st off (Serious misd) - Not more than 1 yr,§321.281(2)(a); 2nd off w/n 6 yrs (aggravated misd) - Not more than 2 yrs, §321.281(2)(b); 3rd and sub off w/n 6 yrs (Cl D felony) - Not more than 5 yrs, §§902.9, 903.1
Mandatory Minimum Term:	0.10 presump. off and 0.13 per se off, 1st off (Serious misd) None; 2nd off w/n 6 yrs (aggravated misd) - 7 dys[1] (There is a 48-hr sentence which may be suspended), §321.281(2)(b); 3rd and sub offs w/n 6 yrs (Cl D felony) —
Fine:	
Amount ($ Range):	0.10 presump. off and 0.13 per se off, 1st off (Serious misd) - $500 to 1,000; 2nd off w/n 6 yrs (Aggravated misd) - $750 to 5,000; 3rd and sub offs w/n 6 yrs (Cl D felony) - Not more than $750 to 1,000

---

[1] This sentence may not be suspended. However, the statute is silent as to probation.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Min. Fine ($):	0.10 presump. off and 0.13 per se off, 1st off (serious misd) - $500; 2nd off w/n 6 yrs (Aggravated misd) - $750; 3rd and sub offs w/n 6 yrs (Cl D felony) - $750
Other Penalties:	
Community Service:	0.10 presump. off and 0.13 per se off, 1st off (serious misd) - 50 to 200 hrs in lieu of the fine
Restitution (eg Victim's Fund)	A separated additional civil penalty of $100 is assessed against a defendant who has their license revoked as a result of a DWI conviction; money from these penalties is placed in a victim reparation fund. §§321.281(16), 321B.30 and 912. For any DWI off, the court mau order the defendant to make restitution for any damages resulting from the off.
Other:	Special Note: Deferred judgment is allowed for any DWI off; if a defendant is allowed such deferment their license is to be revoked from 30-90 dys; however, a restricted hardship license may be issued. See §321.281(6)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	Yes, Admin. Per Se at 0.10% with license revs as follows: 1st off - 180 dys (or until the person reaches the age of 19 whichever period is longer; see §321.281); 2nd and sub offs (w/n 6 yrs of any other DWI rev) - 1 yr (A restricted hardship license may be issued for any Admin. Per Se rev) §321B.16
UVC Type of Provisions:	Yes
Other:	N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	For 0.10 presumption or 0.13 illegal per se offs, 1st off - Rev; 2nd off - Rev; 3rd and subsequent offs - Rev; Any DWI off conviction where there has been a serious injury - Rev; Any DWI off conviction where there has been a death - Rev

111

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.): 1st off-1 yr (or until the def. reaches 19 whichever pd is longer); a rest. lic. may be iss'd for emp/drug eval or treatmt reasons[1]; 2nd off-1 yr; 3rd & sub offs-6 yrs (after 2 yrs a new lic may be iss'd if certain conditions are met; see §321.281(9)(d)[1]; Any DWI off conviction (serious injury involved) - addit'l Rev period of 1 yr shall be imposed notwithstanding any other Rev, see 321.281(9)(d)[1] Any DWI off conviction (death involved) - 6 yrs, see §321.281(9)(d)[1]

Mandatory Minimum Term of Withdrawal: N/A

Other:

Rehabilitation:

Alcohol Education: No

Alcohol Treatment: Yes for 2nd and subsequent offenses

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): No

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: No

Sanctions:

Criminal Sanction:

Imprisonment (Term): N/A

Mandatory Minimum Term: N/A

Fine ($ Range): N/A

Mandatory Minimum Fine: N/A

---

[1] Under 321.283(6), a temporary restricted license may be issued if the defendant is attending an alcohol treatment/education program.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Even though this State does not have a veh homicide stat., it revokes the license for 1 yr for a conviction of manslaughter resulting from the operation of a motor veh. This licensing action is mandatory. If a death is DWI related, the license is revoked for 6 yrs; see §321.281 (9)(e)
Length of Term of Licensing Withdrawal:	N/A
Mandatory Action --Minimum Length of License Withdrawal:	N/A
Other:	N/A
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Serious misd - Not more than 1 yr §§321.281, 321.282, and 3218.15 and 903.1 (Under §321.219 a court cannot suspend sentence; this section is silent as to probation following sentencing.)
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	Not more than $1,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp or rev
Length of Term of License Withdrawal Action:	Original period of Susp or Rev extended an additional like period
Mandatory Term of License Withdrawal Action:	Original period of Susp or Rev extended an additional like period
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes 321.55 and 321.560
Grounds for Being Declared an Habitual Offender:	3 serious offs (w/n 6-yr period or 6 minor offs in a 2-yr period)
Term of License Rev While Under Habitual Offender Status:	If based on serious offs - 2 to 6 yrs; if based on minor offs - 1 yr

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Aggravated misd
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not more than 2 yrs
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	Not more than $5,000
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	Same as for driving while revoked.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 (Year Eff: 1978)
Minimum Age (Years) Possession:	19 (There are exemptions for medical reasons, employment and home use with parental consent) §123.33 and 123.47
Minimum Age (Years) Consumption:	N/A
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes 123.92
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes, Lewis v. State, 256 N.W. 2d 181 (Iowa 1977) and Haafke v. Mitchell, 347 N.W.2d 381 (Iowa 1981)
Other:	N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Simple misd 123.50(1)
Term of Imprisonment:	Not more than 30 dys 123.50
Fine ($ Range):	Not more than $150

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, Susp or rev 123.50
Length of Term of License Withdrawal:	Term of susp not specified; if the license is revoked, term of rev is 2 yrs

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Simple misd 123.50
Term of Imprisonment:	Not more than 30 dys
Fine ($ Range):	Not more than $100

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, 1st off - Susp; 2nd off w/n 2 yrs - Susp; 3rd off w/n 5 yrs - Susp; 4th off w/n 5 yrs - Rev; 123.50
Length of Term License Withdrawal:	1st off - 14 dys; 2nd off w/n 2 yrs - 30 dys; 3rd off w/n 5 yrs - 60 dys; 4th off w/n 5 yrs - 2 yrs

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes §123.28 (The law states that "a person driving a motor veh. shall not knowingly possess in a motor veh. upon a public street or highway any open or unsealed bottle, can, jar or other receptacle containing an alc. bev. or beer w/the intent to consume"
Anti-Consumption Law (Yes/No):	Yes - Driver and passengers §123.46 (The law states that "it is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways...")

STATE: KANSAS
General Comments: See Kansas Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): No
Presumption (BAC Level): N/A
Other: 0.10% is Prima Facie evidence that the defendant was under the influence of alcohol (§8-1005(a)(2))

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
Arrest Required (Yes/No): Yes
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: N/A
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): Yes §8-1567(c), (d) & (e)
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes §§8-1008 and 8-1567(c) See §10 of Senate Bill 699, 1982 as enacted

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): N/A
Administrative Licensing Action (Susp/Rev): N/A
Other: N/A

Refusal to Take Implied Consent Chemical Test
Criminal Sanction (Fine/Jail): No
Administrative Licensing Action (Susp/Rev): Susp for 120 dys-1 yr (May not be mandatory; see §8-255b) KSA §8-1001(c)
Other: N/A

STATE - Kansas

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	1st off -48 hrs-6 mos[1]; 2nd off (w/n 5 yrs)-90 dys-1 yr; 3rd and subsequent offs (w/n 5 yrs) - 90 dys-1 yr §8-1567(c), (d), (e), & (i)
Mandatory Minimum Term:	1st off (w/n 5 yrs)-48 hrs[1]; 2nd off (w/n 5 yrs)-5 dys; 3rd and subsequent offs (w/n 5 yrs)-90 dys
Fine:	
Amount ($ Range):	1st off - $200-500; 2nd off (w/n 5 yrs)-$500-1,000; 3rd and subsequent offs (w/n 5 yrs)-$1,000-2,500
Mandatory Minimum Fine ($):	None
Other Penalties:	
Community Service:	1st off - 100 hrs (in lieu of imprisonment); 2nd off (w/n 5 yrs)-Yes (May be ordered in lieu of fine; 3rd and subsequent offs (w/n 5 yrs)-Yes (May be ordered in lieu of fine; see §8-1567(g))
Restitution (eg Victim's Fund)	Yes - All offs
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off-Restricted[2]; 2nd off-Susp; 3rd and subsequent offs-Rev; Note: Under §8-1567(j), the court has the discretionary power to revoke a person's license for 1 yr for a 1st or 2nd DWI conviction.
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-90 dys - 1 yr; 2nd off-1 yr; 3rd and subsequent offs-1 yr

---

[1] Under §22-2906 et seq. a defendant may enter a diversion program for 1st off and have the DWI criminal charges dismissed after the program has been successfully completed.

[2] A restricted license may be used only (1) in going to and from work, an education program of alcohol counseling or (2) for medical emergencies. §8-1567(c), (d), (e), and Sec. 1 of H.B.3078 enacted in 1983.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Minimum Term of Withdrawal: 1st off-None; 2nd off-1 yr, however, license susp terminates when an approved treatment program has been completed; this could take more than or less than one yr; 3rd and subsequent offs - 1 yr

Other:
Rehabilitation:
Alcohol Education: 1st off-Defendant must complete either an alcohol education or treatment program; see §8-1567(c), (d), & (e).
Alcohol Treatment: N/A
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): Note: Attendance at an alcohol education or treatment program could be a condition for issuing a restricted license.

Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: N/A
Terms Upon Which Vehicle Will Be Released: N/A
Other: N/A
Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Offense: Yes--Cl A misd; Death caused by operation of a veh in a manner which causes unreasonable risk. (KSA §§21-3405, 21-4502, and 21-4503)

Sanctions:
Criminal Sanction:
Imprisonment (Term): Not more than 1 yr
Mandatory Minimum Term: N/A
Fine ($ Range): Not more than $2,500
Mandatory Minimum Fine: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:

Licensing Authorized and Type of Action: Rev

Length of Term of Licensing Withdrawal: Not less than 1 yr

Mandatory Action--Minimum Length of License Withdrawal: No (A restricted license may be issued.)

Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): 1st off Cl B misd-Not more than 6 mos; 2nd off Cl A misd-Not more than 1 yr; 3rd and subsequent off Cl E felony - 1-5 yrs §8-262

Mandatory Minimum Term of Imprisonment: 1st off-5 dys (must be sentenced to serve 5 dys, but parole for this period is possible); 2nd off-5 dys; 3rd and subsequent off §8-262 - 5 dys (KSA §8-262)

Fine ($ Range): 1st off-Not more than $1,000; 2nd off-Not more than $2,500; 3rd and subsequent off - Not more than $5,000;

Mandatory Minimum Fine: None

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): All offs - If convicted of driving while license suspended, a susp; If convicted of driving while license revoked, a rev

Length of Term of License Withdrawal Action: Susp period extends and equals that of original susp period; Rev period is 6 mos and is added onto the original rev period

Mandatory Term of License Withdrawal Action: Susp period extends and quals that of original susp period; Rev period is 6 mos and is added onto original rev period

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes §8-285 (KSA §§8-284 et seq.)

Grounds for Being Declared an Habitual Offender: Three serious offs within 5 yrs

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While Under Habitual Offender Status: 3 yrs
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Cl E felony

Sanctions Following a Conviction of Driving While on Habitual Offender Status:
- Imprisonment (Term): 1-5 yrs
- Mandatory Minimum Term of Imprisonment: N/A
- Fine ($ Range): Not more than $5,000
- Mandatory Minimum Fine ($): N/A
- Licensing Actions (Specify): No specific licensing action in the statute for this off

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
- State Has Such a Law (Yes/No): No
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: N/A
  - Vehicle Passengers: N/A
  - Pedestrian: N/A

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
- Minimum Age (Years) Sale/Purchase: 18 for 3.2% beer 21 for other alcoholic beverages (yr eff: 1949) §§41-715 & 41-2708(e)
- Minimum Age (Years) Possession: 18 for 3.2% beer 21 for all other alcoholic beverages §§41-715 & 41-2708(e)
- Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:
- State Has a Dram Shop Law (Yes/No): No
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): No
- Other: N/A

__Other State Laws Related To Alcohol Use And Driving__: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd (KSA §§21-4501, 41-320, 41-328, 41-705, 41-2708, and 77-201)
Term of Imprisonment:	Not more than 30 dys
Fine ($ Range):	Not more than $200

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev A civil penalty of up to $1,000 may be imposed
Length of Term of License Withdrawal:	Not specified in the statute

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Cl B misd (furnishing intoxicating liquor to any person under 21 yrs of age) (KSA §21-3610)
Term of Imprisonment:	Not more than 6 mos
Fine ($ Range):	Not more than $1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev KSA §§41-2611(e) and 41-2708(k)
Length of Term License Withdrawal:	Not specified §§41-715 and 41-2615 §41-2708

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes §§41-804 & 41-2719
Anti-Consumption Law (Yes/No):	Yes Driver and passengers §§41-719(a) & 41-2720(a)

STATE:	**KENTUCKY**
General Comments:	See: Kentucky Revised Statutes Annotated, 1980, 1982 Cum. Supp. (current through 1982 Regular Session).

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	No
Presumption (BAC Level):	0.10% §189.520(3)(c)
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §10 of S.B. 20 as enacted in 1984
Implied Consent Law:	
Arrest Required (Yes/No):	Yes
Other Information:	No Special Note: After a DWI arrest, if a defendant shows a BAC level of 0.15%, They must be detained in custody at least 4 hrs following their arrest; see §11 of Senate Bill 20 as enacted in 1984.

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	Yes- saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	Yes If a defendant's BAC is 0.15% or more Note: If a defendant's BAC level is 0.10 to 0.15, a DWI charge may be changed provided the prosecutor gives reasons for such action to the court and the court records the reasons for such change, if granted, in the record of the case; see 12 of Senate Bill 20 as enacted in 1984.
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No

STATE - Kentucky

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

- Criminal Sanctions (Fine/Jail): No
- Administrative Licensing Action (Susp/Rev): No
- Other: No

Refusal to Take Implied Consent Chemical Test

- Criminal Sanction (Fine/Jail): No
- Administrative Licensing Action (Susp/Rev): Rev- Not more than 6 mos (Not mandatory) §186.565(4)
- Other: None

Sanctions Following a Conviction for a DWI Offense:

Note: See Ch. 189 as amended by §1 Senate Bill 20 as enacted in 1984.

Criminal Sanctions:

- Imprisonment: 1st off-48 hrs-30 dys; 2nd off (w/n 5 years)-7 dys-6 mos; 3rd and subsequent offs (w/n 5 years)-30 dys-12 mos
- Mandatory Minimum Term: 1st off - 48 hrs[1]; 2nd off (w/n 5 years)- 7 dys; 3rd and subsequent offs-30 dys
- Fine:
  - Amount ($ Range): 1st off-$200-500; 2nd off (w/n 5 years)-$350-500; 3rd and subsequent offs-$500-1,000; A convicted DWI defendant must pay an $150 service fee in addition to any other fine; see §5 of senate bill 20.
  - Mandatory Minimum Fine ($): None
- Other Penalties:
  - Community Service: 1st off - 2-30 dys[2]; 2nd off (w/n 5 years) - 10 dys-6 mos[3]; 3rd and subsequent offs (w/n 5 years) - 10 dys-12 mos[3]
  - Restitution (eg Victim's Fund) Yes; see §348.020-a victim's compensation board

---

[1] Mandatory only if defendant has caused physical injury as a result of the DWI, off in which case a defendant cannot receive community service in lieu of this prison term.

[2] In lieu of fine or imprisonment except for injury related DWI offs

[3] A defendant may be sentenced to community service in addition to any other sanctions imposed; if the court imposes community service, the minimum term noted must be served

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	Note: (1) For a first DWI offs conviction, at least one of the penalties (prison, fine, community service) must be assessed against defendant (2) For 1st and 2nd offenders, the imprisonment may be served on wkends provided that the period of incarceration be at lease 24 hrs; see §§1 and 3 of S.B. 20.
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes[1]
UVC Type of Provisions:	Yes
Other:	No
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off-Rev or Susp; 2nd off - 12 mos Rev (mandatory); 3rd off - 24 mo Rev (mandatory) see §7 of S.B. 20
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-6 mos Rev or a 30 dys (Mandatory) susp and an alcohol education/treatment program; 2nd off-12 mo license Rev; 3rd off-24 mo license Rev; see §7 of S.B. as enacted in 1984
Mandatory Minimum Term of Withdrawal:	1st off-6 mos license Rev of a 30 dys (Mandatory) susp and an alcohol education/treatment program; 2nd off-12 mo license Rev (Mandatory); 3rd off-24 mo license Rev (Mandatory) §7 of S.B.
Other:	
Rehabilitation:	
Alcohol Education:	Yes (See alternatives below)
Alcohol Treatment:	For 2nd, 3rd and subsequent DWI off convictions, the defendant must be sentenced to an alcohol or substance abuse program

---

[1] A court may suspend a driver's license following a DWI arrest but prior to adjudication of the DWI charges if there is probable cause that the defendant committed such off and any one of the following circumstances is present:
(1) Prior traffic violations (including DWI offs) which demonstrate a lack of regard for the safety of others; or
(2) Where the DWI charge involves physical injury
The Court may suspend a license from 14 to 60 dys. If the defendant is convicted of the DWI charge, any admin per se susp time is credited towards their license rev following such conviction: See § 6 of Senate Bill 20 as enacted in 1984.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): For a first DWI off conviction, a defendant may have their license rev reduced from 6 mos to a 30 dy susp if they attend an alcohol of substance abuse education or treatment program

Vehicle Impoundment/Confiscation:
- Authorized by Specific Statutory Authority: No
- Terms Upon Which Vehicle Will Be Released: N/A
- Other: N/A
- Miscellaneous Sanctions Not Included Elsewhere: None

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
- State Has Such Law/Type of Offense: No (Special Note: "A person is guilty of manslaughter in the second degree when, including, but not limited to, the operation of a motor vehicle, he wantonly causes the death of another person (See § 507.040(1)); manslaughter in the second degree is a Cl C felony" (See § 507.040(2))

Sanctions:
- Criminal Sanction:
  - Imprisonment (Term): N/A
  - Mandatory Minimum Term: N/A
  - Fine ($ Range): N/A
  - Mandatory Minimum Fine: N/A
- Administrative Licensing Action:
  - Licensing Authorized and Type of Action: Note: Even though this state does not have vehicle homicide statute, it, nevertheless provides for mandatory license rev for at least 6 mos for a conviction of manslaughter resulting from operation of a motor vehicle; there rev period is longer if then has been a previous mandatory lic rev action.
  - Length of Term of Licensing Withdrawal: None
  - Mandatory Action--Minimum Length of License Withdrawal: None
  - Other: None

STATE - Kentucky

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off (Cl B misd)-Not more than 90 dys; 2nd off (Cl A misd)-Not more than 12 mos; 3rd and subsequent offs (Cl D felony)-1-5 yrs; §§532.060 & 532.090 see Ch. 189 as amended by §9 senate bill 20
Mandatory Minimum Term of Imprisonment:	None
Fine ($ Range):	1st off-Not more than $250; 2nd off-Not more than $500; 3rd and subsequent offs-Not more than $10,000 [1]; §§534.030 & 534.040
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	1st off-Rev; 2nd off-Rev; 3rd and subsequent offs-Rev
Length of Term of License Withdrawal Action:	The driver's license shall be revoked for twice the original period of rev
Mandatory Term of License Withdrawal Action:	Yes, as indicated immediately above
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes 186.642
Grounds for Being Declared an Habitual Offender:	3 or more serious offs (including DWI offs) within 5 years
Term of License Rev While Under Habitual Offender Status:	Rev of license for a period of 5 yrs if habitual offender status is based on three or more convictions for DWI
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Misd

---

[1] This fine is imposed only if the defendant is granted either a sentence of probation or conditional discharge.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not to exceed 12 mos
Mandatory Minimum Term of Imprisonment:	No
Fine ($ Range):	No
Mandatory Minimum Fine ($):	No
Licensing Actions (Specify):	See section on suspended or revoked license

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes[1]
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1938)
Minimum Age (Years) Possession:	21 §244-085
Minimum Age (Years) Consumption:	N/A
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes, Pike v. George 434 SW 2d 626 (Ky. 1968)
Other:	None

---

[1] Language in Ky. Rev. Stat. Ann. §189.590 requiring coroners to report on the circumstances surrounding fatal accidents may impliedly require such tests. Woosley v. Central Uniform Rental, 463 S.W. 2d 345 (1971). An investigative officer or a coroner may direct taking of blood samples of dead if necessary. OAC 73-170; OAG 73-196. A person dead or unconscious is deemed not to have revoked implied consent to BAC test. Ky. Rev. Stat. Ann § 186.565.

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: 1st off-Misd; 2nd off-Misd

Term of Imprisonment: 1st off-Not more than 6 mos; 2nd off-Not more than 6 mos

Fine ($ Range): 1st off-$100-200; 2nd off-$200-500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): 1st off-Yes; 2nd off-Yes

Length of Term of License Withdrawal: 1st off-Not specified; 2nd off-Not specified

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: 1st off-Misd; 2nd off-Misd

Term of Imprisonment: 1st off-Not more than 6 mos; 2nd off-Not more than 6 mos

Fine ($ Range): 1st off - $100-200; 2nd off-$200-500

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes

Length of Term License Withdrawal: Not specified

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): Yes Driver & passengers §244.020 The law states that "no person shall drink any alcoholic beverage in any public place in or upon any passenger coach, street car or other vehicle commonly used for the transportation of passengers"

STATE: LOUISIANA

General Comments: See West's Louisiana Statutes Annotated: Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% §14:98(A)(2)
Presumption (BAC Level): 0.10% §32:662(A) (1) (c)
Other: No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
    Arrest Required (Yes/No): Yes §32:661
    Other Information: Special Note: Under §32:666 a driver may not refuse to submit to a chemical test if they have been involved in a traffic fatality or accident resulting in a serious bodily injury

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes §32:661
Urine: Yes §32:661
Other: Other bodily substance §32:661

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Optional; see §14:98G

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
    Criminal Sanctions (Fine/Jail): N/A
    Administrative Licensing Action (Susp/Rev): N/A
    Other: N/A

STATE - Louisiana

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	1st refusal- Susp for 180 dys, the first 90 dys are mandatory; 2nd and subsequent refusals- Susp for 545 dys (Mandatory); 32:667(B)(2) & 32:668(B)(1), (2), & (3)
Other:	Special Note: A hardship license is only available to drivers for a 1st refusal after the first 90 dys of the susp period have passed.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-10 dys-6 mos; 2nd off (w/n 5 yrs)-30 dys-6 mos; 3rd off-felony (w/n 5 yrs)-1-5 yrs (w/or w/o hard labor)[3]; 4th off felony (w/n 5 yrs)-10-30 yrs (w/hard labor) §14:98; DWI related injury-Not more than 6 mos (§§14:2(4) and 14:39.1)
Mandatory Minimum Term:	1st off-[1]; 2nd off (w/n 5 yrs)-[2]; 3rd off-felony (w/n 5 yrs)-6 mos[2]
Fine:	
Amount ($ Range):	1st off-$125-500; 2nd off (w/n 5 yrs)-$300-500; 3rd off felony-Not more than $1,000; 4th off felony DWI related injury (veh. negligent injury)-Not more than $500
Mandatory Min. Fine ($):	None

---

[1] Alternatives to the imposition of sentence w/probation (The imposition of sentence is mandatory unless one of these alternatives is taken): (1) Serve a minimum of 2 dys in jail and participate in substance abuse and driver improvement programs or (2) perform at least four eight-hr dys of community service and participate in substance abuse and driver improvement programs.

[2] Alternatives to the imposition of sentence w/probation (The imposition of sentence is mandatory unless one of these alternatives is taken): (a) Serve a minimum of 15 dys in jail and participate in substance abuse and driver improvement programs of (b) perform at least 30 eight-hr dys of community service and participate in substance abuse and driver improvement programs.

[3] If probation is granted for part of the sentence, the defendant must participate in substance abuse and driver improvement programs; however, 6 mos of the sentence is mandatory.

STATE - Louisiana

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other Penalties:
Community Service: N/A
Restitution (ie Victim's Fund) N/A
Other: N/A

Administrative Licensing Actions:
Pre-DWI Conviction Licensing Action:
Administrative Per Se Law: Yes BAC level of 0.10%; 1st Off-Susp for 90 dys; The 1st 30 dys are mandatory; A restricted license may be issued a for the remaining 60 dys of the susp period; 2nd and subsequent offs (w/n 5 yrs)-Susp for 365 dys (mandatory); 32:667(B)(1) and 32:668(B)(3)
UVC Type of Provisions: Yes
Other: N/A

Post DWI Conviction Licensing Action:
Type of Licensing Action (Susp/Rev): 1st off-Susp; 2nd and subsequent offs (w/n 5 yrs)-Rev §32:414
Term of License Withdrawal (Days, Months, Years, etc.): 1st off-60 dys (Hardship provision (to earn livelihood) for 1st off only); 2nd and subsequent offs (w/n 5 yrs)-12 mos §32:414 & §32:415./ Act. No. 822
Mandatory Minimum Term of Withdrawal: 1st off-No; 2nd and subsequent offs (w/n 5 yrs)-12 mos

Other:
Rehabilitation:
Alcohol Education: Yes Note: § 32-415.1(A)(2). Judges are given the authority to refer first time offenders for education or rehabilitation. Restricted licenses are issued to facilitate attendance in driver improvement schools. Courts grant based on medical evaluation and on recommendations that the convicted DWI offender will benefit from such treatment. § 14:98 (c) authorizes the court to order a DWI offender to undergo substance abuse treatment program in lieu of imprisonment.
Alcohol Treatment: Yes
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): Yes

Sanctions Following a Conviction for a DWI Offense:
(continued)

Vehicle Impoundment/Confiscation:
- Authorized by Specific Statutory Authority: No
- Terms Upon Which Vehicle Will Be Released: N/A
- Other: N/A
- Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
- State Has Such Law/Type of Offense: Yes- Is restricted to death caused by a driver while DWI, or under the influence of certain drugs §14:32.1
- Sanctions:
  - Criminal Sanction:
    - Imprisonment (Term): 2-5 yrs
    - Mandatory Minimum Term: N/A
    - Fine ($ Range): $2,000-5,000
    - Mandatory Minimum Fine: N/A
  - Administrative Licensing Action:
    - Licensing Authorized and Type of Action: Rev §32:414
    - Length of Term of Licensing Withdrawal: 12 mos
    - Mandatory Action--Minimum Length of License Withdrawal: 12 mos
    - Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
- Sanction: Note: "offs" defined at Art. 933, C. Cr. P.
  - Criminal:
    - Imprisonment (Term): 7 dys-6 mos (if such violation was simultaneous with a second or subsequent DWI conviction)
    - Mandatory Minimum Term of Imprisonment: 1st off-No; 2nd off-7 dys
    - Fine ($ Range): 1st off-Not more than $500; 2nd off $300-500; §32:415 §32:427 Act No. 556
    - Mandatory Minimum Fine: 1st off-No; 2nd off-No

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp or rev periods are increased
Length of Term of License Withdrawal Action:	1 yr
Mandatory Term of License Withdrawal Action:	1 yr (Hardship license available for first offenders: see Sec. 32:451.1)
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes
Grounds for Being Declared an Habitual Offender:	Convictions for 2 or more serious traffic law offs w/n a 5 yr period or convictions for 10 or more minor and serious offs w/n a 3-yr period §32:1472
Term of License Rev While Under Habitual Offender Status:	3 yrs (Also, "certain financial responsibility requirements must be met and petition must be made to court which may, upon showing of good cause, restore the license; Note: A 1st time habitual offender may apply for a hardship license under §32:1477(B)) (Act. No. 555)
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Misd Act. 933, C. Cr.P.
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	1-5 yrs §32:1480 Act No. 555
Mandatory Minimum Term of Imprisonment:	No
Fine ($ Range):	None
Mandatory Minimum Fine ($):	No
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes §32:661(A)
Vehicle Passengers:	Yes §32:398(E) & (F)
Pedestrian:	Yes §32:398(E) & (F)

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	18 §26:88(1) (See also R.S. §14-91) (Year Eff: 1948)
Minimum Age (Years) Possession:	N/A
Minimum Age (Years) Consumption:	N/A
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	No Note: Possible liability under Pence v. Ketchum, 326 So. 2d 831 (La. 1976) and Chausee v. Southland, 400 So.2d 1199 (La. 1981)
Other:	No
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	A. For alcoholic beverages with an alcohol content of 6% or above-Misd B For alcoholic beverages with an alcohol content of 1/2 of 1% to 6%-Misd
Term of Imprisonment:	A. For alcoholic beverages with an alcohol content of 6% or above-30 dys-6 mos §26:191 B. For alcoholic beverages with an alcohol content of 1/2 of 1% to 6%, 1st off-30 dys-6 mos; 2nd or subsequent off-60 dys-12 mos; §26:521
Fine ($ Range):	A. For alcoholic beverages with an alcohol content of 6% or above-$100-500 or 1st-$50-500; 2nd (w/n 3 yrs)-250-1,000 3rd (w/n 3 yrs)-$500-2,500[1]; 26:94 B. For alcoholic beverages with an alcohol content of 1/2 of 1% to 6% $100-500 or 200-1,000 or 1st-$50-500; 2nd off (w/n 3 yrs) - $250 - 500; 3rd and subsequent offs (w/n 3 yrs) - $500 - 2,500; 26:290

---

[1] However, this graduated schedule of fines may be in lieu of or in addition to rev/susp, not in addition to first listed fine.

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes (not mandatory) §26:88
Length of Term of License Withdrawal:	A. For alcoholic beverages with an alcohol content of 6% or above 1 yr; 26:88 B. For alcoholic beverages with an alcohol content of 1/2 of 1% to 6% 1 yr §26:291
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Misd
Term of Imprisonment:	0-6 mos[1]
Fine ($ Range):	$0-300[1]
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, but not mandatory
Length of Term License Withdrawal:	1 yr
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

---

[1] It could be that the penalty options listed on the preceding page apply as a specific exception to the general rule. §14:91

STATE: **MAINE**

General Comments: See Maine Revised Statutes Annotated. Section references are to 29 MRSA unless otherwise stated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes 0.10% (Both a criminal violation and a traffic infraction) §§1312B and 1312C

Presumption (BAC Level): N/A

Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No

Implied Consent Law:

- Arrest Required (Yes/No): No
- Other Information: The officer does not have to arrest a driver, they nevertheless, must have "probable cause" before a suspected drunk driver has to submit to a chemical test. §1312

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes §1312

Urine: N/A

Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): Must adjudicate as a criminal violation if BAC level is 0.20% or more

Anti-Plea Bargaining Statute (Yes/No): No

Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

- Criminal Sanctions (Fine/Jail): N/A
- Administrative Licensing Action (Susp/Rev): N/A
- Other: N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st refusal- Susp for 180 dys (A restricted license may be issued after the first 90 dys which are mandatory; see §1312-D(5)); 2nd refusal (w/n 6 yrs)- Susp for 1 yr (mandatory) §1312(2)
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	Criminal violation (Cl D crime) less than 1 yr; Traffic infraction[1]-Not applicable to a traffic infraction Secs. 1312-B & -C
Mandatory Minimum Term:	Criminal violation-48 hrs (cons)
Fine:	
Amount ($ Range):	Criminal violation-Not more than $1,000; Traffic infraction[1]-$250-500
Mandatory Min. Fine ($):	Criminal violation-Not less than $350; Traffic infraction-$250[1]
Other Penalties:	
Community Service:	None
Restitution (eg Victim's Fund)	None
Other:	Note: If a person's BAC level is 0.20% or more, the state may not elect to prosecute the DWI off as a traffic infraction. §1312(C)(5)
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes-0.10 BAC level. The periods of license susp for 1st and subsequent offs are the same as Post DWI Conviction Licensing Actions (below); however, a work restricted license may be issued; see 29 MRSA §1311-A[2].
UVC Type of Provisions:	Yes
Other:	N/A

---

[1] A person shall not be charged with a traffic infraction if they have been convicted of either such an infraction or an alcohol criminal violation within a six (6) yr period.

[2] Maine has a special statute concerning the administrative susp of licenses for 1 yr of persons under 20 yrs of age who operate a veh while having a BAC level of 0.02%; hardship and provisional licenses are available; this statute is not reported in detail here; see 29 MRSA 2241-G.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Post DWI Conviction Licensing Action:

- Type of Licensing Action (Susp/Rev): For all offs - Susp
- Term of License Withdrawal (Days, Months, Years, etc.): Criminal offs, 1st off-90-275 dys; Subsequent offs (w/n 6 yrs)-1 yr; Traffic infraction-45-135 dys; §1312 et seq.
- Mandatory Minimum Term of Withdrawal: Criminal offs, 1st off-90 dys; Subsequent offs (w/n 6 yrs)-1 yr (If an offender is under 18 yrs old, their license must be suspended for a mandatory period of 180 dys; see 29 §1312-B(4), 15 §3103(1)(F) & 15 § 3314(3)); Traffic infraction - 45 dys

Other:

- Rehabilitation:
  - Alcohol Education: N/A
  - Alcohol Treatment: N/A
  - Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): For license susp period of less than 90 dys, after 2/3 of license susp period have passed, the DWI offender may be issued a license if they have completed an alcohol education program the license issued after the 2/3 period may only be used in going either employment or to an alcohol education/treatment program (however, the amount of time the license was actually suspended plus the time period for the restricted license cannot total less than 90 dys; in addition, a temporary restricted license may be issued to a driver for the purpose of allowing them to attend an alcohol education/treatment program notwithstanding any other provision of law; see §1312-D(2), (3) and (4).

Sanctions Following a Conviction for a DWI Offense: (continued)

- Vehicle Impoundment/Confiscation:
  - Authorized by Specific Statutory Authority: No
  - Terms Upon Which Vehicle Will Be Released: N/A
  - Other: N/A
  - Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

- Homicide by Vehicle:
  - State Has Such Law/Type of Offense: Yes, applies only if death is caused by the reckless operation of a veh. 17-A MRSA §203 and 29 MRSA §1313
  - Sanctions:
    - Criminal Sanction:
      - Imprisonment (Term): Not more than 5 yrs
      - Mandatory Minimum Term: N/A
      - Fine ($ Range): Not more than $2,500
      - Mandatory Minimum Fine: N/A
    - Administrative Licensing Action:
      - Licensing Authorized and Type of Action: Rev
      - Length of Term of Licensing Withdrawal: 5 yrs
      - Mandatory Action--Minimum Length of License Withdrawal: 5 yrs
      - Other: N/A
- Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
  - Sanction:
    - Criminal:
      - Imprisonment (Term): Less than 1 yr (Cl D crime) §2184
      - Mandatory Minimum Term of Imprisonment: 7 dys
      - Fine ($ Range): Not more than $2,500 §2184
      - Mandatory Minimum Fine: $350

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:
- Type of Licensing Action (Susp/Rev): Susp
- Length of Term of License Withdrawal Action: 1-3 yrs added to the original susp or rev
- Mandatory Term of License Withdrawal Action: 1 yr added to the original susp or rev

Habitual Offender Laws:
- State Has Such Law (Yes/No): Yes §2292
- Grounds for Being Declared an Habitual Offender: Convictions for 3 serious offs. (e.g. DWI)
- Term of License Rev While Under Habitual Offender Status: The rev period is indefinite but relief from such rev may be granted after 1 yr.
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Cl C crime §§2292 and 2299
- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): Not more than 5 yrs
  - Mandatory Minimum Term of Imprisonment: 60 dys
  - Fine ($ Range): Not more than $5,000 §2298
  - Mandatory Minimum Fine ($): N/A
  - Licensing Actions (Specify): Relief from habitual offender status shall not be granted for at least 3 yrs from the date the offender would have been eligible.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
- State Has Such a Law (Yes/No): No
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: N/A
  - Vehicle Passengers: N/A
  - Pedestrian: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	20 (yr eff 1977)
Minimum Age (Years) Possession:	20 (Applies to public places and to automobiles; employment exemption) 28 MRSA §303
Minimum Age (Years) Consumption:	20 (Only applies to "On-sale premises") 28 MRSA §§303 and 1058
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes 69 MRSA §2002
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	No
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	None
Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes Susp or rev 28 MRSA §401
Length of Term of License Withdrawal:	Not specified in the statute
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	None
Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes Susp or Rev
Length of Term License Withdrawal:	Not specified in the statute

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

STATE: **MARYLAND**
General Comments: See Annotated Code of Maryland (ACM).

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): No
Presumption (BAC Level): No
Other: A BAC of 0.08 is *prima facie* evidence of driving while under the influence. A BAC of 0.13 is *prima facie* evidence of intoxication. (Code of Maryland, Courts and Judicial Proceedings §§10-309 and 10-307 and Transportation §21-902

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes Tran. §16-205.2
Implied Consent Law:
Arrest Required (Yes/No): Yes
Other Information: N/A Special Note: If a driver is involved in a DWI related accident which resulted in the death of another person, the driver shall be required to submit to a chemical test of their blood or breath Tran. §16-205.1(c)

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes (ACM Trans §16-205.1)
Urine: No
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): No (Note: PSI required only for convictions of felony offs.)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): None
Administrative Licensing Action (Susp/Rev): None
Other: N/A

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): None

Administrative Licensing Action (Susp/Rev): 1st refusal-Susp for 60 dys-6 mos; 2nd and subsequent refusals-Susp for 120 dys-1 yr; (Restricted license available; Tran. §16-205.1(f)(5)

Other: None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): 1.) Driving while under the influence (Misd), 1st off-Not more than 2 mos; Subsequent off-Not more than 1 yr; 2.) Driving while intoxicated (Misd), 1st off-Not more than 1 yr; Subsequent offs-Not more than 2 yrs (Trans. §§21-902 and 27-101)

Mandatory Minimum Term: None (Note: Probation is not allowed for a second or subsequent DWI off within a 5 yr period.)

Fine:

Amount ($ Range): 1.) Driving while under the influence, 1st off-Not more than $500; Subsequent off-Not more than $500; 2.) Driving while intoxicated, 1st off-Not more than $1,000, Subsequent offs-Not more than $1,000

Mandatory Min. Fine ($): N/A

Other Penalties:

Community Service: Optional when entrance of judgement is stayed and individual is placed on probation. Art. 27 §641

Restitution (eg Victim's Fund) Optional when judgement's entrance is stayed and individual is placed on probation. Art. 27 §641

Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None

Sanctions Following a Conviction for a DWI Offense:
(continued)

UVC Type of Provisions: None
Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): 1.) Tran. §§16-2-5 and 16-208. Driving while under the influence, 1st off-Susp; 2nd off within 3 yrs-Susp; 3rd off within 3 yrs-Rev; 2.) Driving while intoxicated - Rev: See Note at end of the criminal sanctions section.

Term of License Withdrawal (Days, Months, Years, etc.): 1.) Driving while under the influence, 1st off-Not more than 60 dys; 2nd off w/n 3 yrs-Not more than 120 dys; 3rd off w/n 3 yrs-6 mos for a 1st rev, 1 yr for a 2nd rev, and 18 mos for 3rd and subsequent revs

Mandatory Minimum Term of Withdrawal: N/A

Other:

Rehabilitation:

Alcohol Education: Health-General §8-404
Alcohol Treatment: Health-General §8-404
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe): Yes

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No
Terms Upon Which Vehicle Will Be Released: N/A
Other: If a person drives a motor veh while his or her license is suspended or revoked for an alcohol off, the registration of the motor veh he or she was driving may be suspended for not more than 120 dys Tran: §13-705.1

Sanctions Following a Conviction for a DWI Offense:
(continued)

Miscellaneous Sanctions Not Included Elsewhere:	Special Note: (1) A person who had been convicted of an alcohol driving off can have their license suspended/revoked either directly under Tran. sec. 16-205 or via the point system under Tran. secs. 16-401 et. seq. Under the point system, a driver is assessed the following points for alcohol driving offs convictions: Driving While Under the Influence (DUI) - 8 points Driving While Intoxicated (DWI) - 12 points (1) Points assessed for any traffic law violation remain on a driver's record for two (2) yrs. A person who accumulates either eight (8) or 12 points at any time may have their license either suspended or revoked. (2) Under certain circumstances a person could have their license revoked via the point system for a second DUI off conviction instead of suspended as described for this State. Under Tran. Sec. 16-205(b), a person convicted of a second DUI off within three (3) yrs may have their license suspended for no more than 120 dys. However, if such a DUI conviction occurred within two (2) years of a prior one, the driver would have accumulated 16 points on their driver's record (8 points assessed for each DUI conviction) and would, be subject to license rev under the point system. Thus, the 120 dy susp period may only apply if the second DUI off conviction is more than two (2) but less than three (3) years after a prior off. (3) And, license susp periods for first and second DUI off convictions appear to be limited to 60 and 120 dys respectively via the provisions of Tran. Sec. 16-205(b). This is despite the fact that under Tran. Sec. 16-208(a), if a person who accumulates eight (8) points, they can have their license suspended for up to one (1) yr.

146

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes 1) Death caused by the operation of a veh "In a grossly negligent manner"- Misd 2) Death caused by operation of a motor veh while intoxicated-Misd Art. 27, §388
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	1) Operating "in a grossly negligent manner"-Not more than 5 yrs 2) Operating while intoxicated - Not more than 3 yrs
Mandatory Minimum Term:	N/A
Fine ($ Range):	1) Death caused by the operation of a veh "in a grossly negligent manner"-Not more than $1,000 2) Death caused by operation of a motor veh while intoxicated-Not more than $1,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev via the point system
Length of Term of Licensing Withdrawal:	6 mos if this is a first rev; 1 yr if this is a 2nd rev; and 18 mos if this is a 3rd rev
Mandatory Action--Minimum Length of License Withdrawal:	None Note: A restricted license may be issued
Other:	N/A
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off (Misd) - Not more than 1 yr; 2nd and subsequent offs-Not more than 2 yrs; §§16-303 & 27-101
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	1st off-Not more than $1,000; 2nd and subsequent offs-Not more than $1,000
Mandatory Minimum Fine:	N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): 1st off-Rev; 2nd and subsequent offs-Rev (via point system; rev under Tran; §16-303 results in 12 points being assessed against a driver; see Tran. §§16-402 & 16-404) See Other column under Vehicle Impoundment/Confiscation; Trans. §§16-303 and 27-101.

Length of Term of License Withdrawal Action: 6 mos if a first rev; 1 yr if a second rev; 18 mos if this is a third rev

Mandatory Term of License Withdrawal Action: Note: Under Tran. §16-405, a rev may be canceled or modified if a person's employment or opportunity for employment would be adversely affected.

Habitual Offender Laws:

State Has Such Law (Yes/No): No

Grounds for Being Declared an Habitual Offender: N/A

Term of License Rev While Under Habitual Offender Status: N/A

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): N/A

Mandatory Minimum Fine ($): N/A

Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): No

BAC Chemical Test Is Given to the the Following Persons:

Driver: N/A

Vehicle Passengers: N/A

Pedestrian: N/A

STATE - Maryland

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (yr eff: 1982)
Minimum Age (Years) Possession:	21 (State law applies to prohibiting possession and consumption in public places; however, certain State laws applying to certain counties have additional restrictions; see generally) Art. 2B §118(a) et seq.
Minimum Age (Years) Consumption:	21

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	No Special Note: For a recent Maryland case in this area, see Felder v. Butler, 438 A.2d 494 (1981)
Other:	N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd (Art. 2B, §§69, 69A, 118, and 200)
Term of Imprisonment:	Not more than 2 yrs
Fine ($ Range):	Not more than $1,000

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev (Note: For licenses issued by the Comptroller a monetary compromise of not more than $2,000 may be paid in lieu of susp or rev.)
Length of Term of License Withdrawal:	Generally 6 mos, but for certain counties it may be longer

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Misd (ACM Art. 2B §§69, 69A, 118, and 200)
Term of Imprisonment:	Not more than 2 yrs
Fine ($ Range):	Not more than $1,000
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or rev (Note: For licenses issued by the Comptroller, a monetary compromise of not more than $2,000 may be paid in lieu of susp or rev.)
Length of Term License Withdrawal:	Generally 6 mos but for certain counties it may be longer
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	Yes- However, this law is limited to certain public parking areas Art. 2B §§207-214
Anti-Consumption Law (Yes/No):	Yes-Driver and passengers Art. 2B §211 (Limited applications; a person may not consume an alcoholic beverage either on public property or on private property used by the public unless respectively authorized by either the local government or the property owner.

STATE: **MASSACHUSETTS**
General Comments: See Massachusettes General Laws Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): No
Presumption (BAC Level): Yes 0.10% C.90 §24(1)(e)
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
- Arrest Required (Yes/No): Yes C.90 §24(f)
- Other Information: If person refused to consent after being arrested, police officer immediately prepares written report; this report is forwarded to the register who then suspends the person's license for 90 dys.

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: No (Unless brought in for treatment)
Urine: No
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): Yes C.90 §24(g)
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes C.90 §24(1)(a)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
- Criminal Sanctions (Fine/Jail): No
- Administrative Licensing Action (Susp/Rev): No
- Other: N/A

Refusal to Take Implied Consent Chemical Test
- Criminal Sanction (Fine/Jail): No
- Administrative Licensing Action (Susp/Rev): Susp of license for 90 dys C.90 §24(f) (Mandatory)
- Other: N/A

STATE - Massachusetts

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-Not more than 2 yrs; 2nd off (w/n 6 yrs)-7 dys-2 yrs; 3rd and subsequent offs - 60 dys-2 yrs; C.90 §24
Mandatory Minimum Term:	1st off-No; 2nd off (w/n 6 yrs)-7 dys; 3rd and subsequent offs-60 dys (Work release is available; see also the rehabilitation columns)
Fine:	
Amount ($ Range):	1st off-$100-1,000; 2nd off (w/n 6 yrs)-$300-1,000; 3rd and subsequent offs-$500-1,000
Mandatory Min. Fine ($):	None
Other Penalties:	
Community Service:	For any off a minimum of 30 hrs may be ordered by the Court as a condition of probation Sec C.90 §24(D)
Restitution (ie Victim's Fund)	None
Other:	None
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	No
UVC Type of Provisions:	No
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Rev for all offs C.90 §24(1)9b) & (1)(c)
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-1 yr; 2nd off (w/n 6 yrs)-2 yrs; 3rd & subsequent offs (w/n 6 yrs)-5 yrs
Mandatory Minimum Term of Withdrawal:	1st off-30 dys susp (If defendant is placed on probation and agrees to participate in an alcohol education program: otherwise the license is revoked a mandatory 1 yr period; see 90 §24D); 2nd Off (w/6 yrs)-1 yr; 3rd and subsequent Off (w/6 yrs)-2 yrs

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:

Rehabilitation:

Alcohol Education: Yes, 1st off-If the defendent consents, he may be placed on 1-yr probation conditioned on attending an alcohol education treatment or rehabilitation program. At Court's discretion such persons must pay a $400 fee for placement in the program. C.90 §24(d); 2nd off - In lieu of imprisonment, defendant may serve at least 14 dys in a residential alcohol treatment program and be placed on 2 yrs probation. C.90 §24

Alcohol Treatment: Yes see above

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): Yes see above

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes (Homicide by motor veh) C.90 §24(G)

Sanctions:

Criminal Sanction:

Imprisonment (Term): 30 dys to 2 1/2 yrs

Mandatory Minimum Term: 30 dys

Fine ($ Range): $300 to 3,000

Mandatory Minimum Fine: $300

Administrative Licensing Action:

Licensing Authorized and Type of Action: Rev 90 §24(1)(1)(4)

Length of Term of Licensing Withdrawal: 10 yrs

Mandatory Action--Minimum Length of License Withdrawal: 10 yrs

Other: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
  Sanction:
    Criminal:
      Imprisonment (Term): 1st off-7 dys to 2 1/2 yrs; Subsequent offs - 10 dys to 1 yr; C.90 §23
      Mandatory Minimum Term of Imprisonment: 1st off-7 dys; Subsequent offs-10 dys
      Fine ($ Range): 1st off-$200-1,000
      Mandatory Minimum Fine: N/A

    Administrative Licensing Actions:
      Type of Licensing Action (Susp/Rev): 1st off-Susp; Subsequent offs-Rev
      Length of Term of License Withdrawal Action: 1st off-90 dys-6 mos
      Mandatory Term of License Withdrawal Action: 1st off-90 dys

Habitual Offender Laws:
  State Has Such Law (Yes/No): Yes C.90 §22(f)
  Grounds for Being Declared an Habitual Offender: Three or more convictions, singularly or in combination of operating a motor veh while under the influence of intoxicating liquor in violation of C.90 §24(1)(a)
  Term of License Rev While Under Habitual Offender Status: 4 yrs (If the defendant has a proven hardship, a license may be issued after 1 yr)
  Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Criminal off
  Sanctions Following a Conviction of Driving While on Habitual Offender Status:
    Imprisonment (Term): Not more than 2 yrs
    Mandatory Minimum Term of Imprisonment: N/A
    Fine ($ Range): $200-1,000
    Mandatory Minimum Fine ($): $200
    Licensing Actions (Specify): Rev

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes C.38 §6(A)

BAC Chemical Test Is Given to the the Following Persons:

Driver: Yes The law requires medical examiners to submit to the police lab blood samples of drivers who die of injuries received in auto accidents within 4 hrs of the accident.

Vehicle Passengers: No

Pedestrian: Yes (Same rule for drivers who die (C.38 §6(A)) Applies for pedestrians 16 yrs or older

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 138 §34 (yr eff: 1985)

Minimum Age (Years) Possession: 21 (Applies to the transportation of alcoholic beverages by an unattended person under 21; there is an exemption for persons 18 and 19 for employment purposes) 138 §34C

Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: Yes, Adamain v. Three Sons, 353 Mass. 498, 233 N.E. 2d 18 and Cimino v. The Milford Keg, Inc., 431 N.E. 2d 920 (Mass.1982)

Other: N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: (Misd sec C.138 §§62 and 69

Term of Imprisonment: Not less than 1 mo and not more than 1 yr

Fine ($ Range): Not less than $50 and not more than $500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): No

Length of Term of License Withdrawal: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd (See C.138 and §64)
Term of Imprisonment: Not more than 6 mos
Fine ($ Range): Not more than $1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No): Possibly (Left up to the Court's discretion) C.138 §64
Length of Term License Withdrawal: If revoked--1 yr C.138 §64

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): No
Anti-Consumption Law (Yes/No): Yes (Applies to drivers only) C.90 §241

STATE:	**MICHIGAN**
General Comments:	See Michigan Compiled Laws Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §257.625(2)
Presumption (BAC Level):	A BAC of greater than 0.07 but less than 0.10 is a presumption of impairment. A BAC of 0.10 or more is a presumption of driving while under the influence §257.625a(3)(b) & (c)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §257.625h
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §257.625c(1)(a)
Other Information:	Special Note: It appears that a test could be required via a court order; i.e. Consent by the driver is not required; see §257.625a(b)

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §257.625c(1)
Urine:	Yes §257.625c(1)
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §257.625(8)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	Civil infraction §257.625h(5)

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): N/A

Administrative Licensing Action (Susp/Rev): 1st refusal- 6 mo susp (Note: A restricted/hardship license may be issued.); 2nd and subsequent refusals (w/n 7 yrs)-1 yr (mandatory susp) §257.323c and §257.625f(1)

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): 1.) Driving while impaired (§257.625b) 1st off Misd-Not more than 90 dys; 2nd off (w/n 7 yrs.) Misd-Not more than 1 yr; 3rd and subsequent offs (w/n 10 yrs) -Not more than 1 yr; Driving while under the influence, 1st off Misd - Not more than 90 dys; 2nd off Misd - Not more than 1 yr; 3rd and Subsequent offs (w/n 10 yrs) Felony - 1 to 5 yrs

Mandatory Minimum Term: N/A

Fine:

Amount ($ Range): 1.) Driving while impaired (§257.625b) 1st off-Not more than $300; 2nd off (w/n 7 yrs)-Not more than $1,000; 3rd and subsequent offs (w/n 10 yrs)-Not more than $1,000; 2.) Driving while under the influence (§257.625), 1st off-$100 to 500; 2nd off w/n 7 yrs-Not more than $1,000; 3rd and subsequent off w/n a 10-yr period - Not more than $1,000

Mandatory Min. Fine ($): N/A

Other Penalties:

Community Service: All offs - up to 12 dys

Restitution (eg Victim's Fund) No

Other: No

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	1.) Driving while impaired 1st off-Susp; 2nd off (w/n 7 yrs)-Susp; 3rd and subsequent off (w/n 10 yrs)-Rev §257.625b(2), (3) & (4); 2.) Driving while under the influence 1st off-Susp; 2nd off-Revoked; 3rd and subsequent offs (felony)-Revoked; §257.625(5) and (6)
Term of License Withdrawal (Days, Months, Years, etc.):	1.) Driving while impaired 1st off-90 dys-1 yr; 2nd off (w/n 7 yrs)-6-18 mos; 3rd and subsequent off (w/n 10 yrs)-1 yr (5 yrs[1]); 2.) Driving while under the influence 1st off-6 mos-2 yrs; 2nd off-1 yr; 3rd and subsequent offs (felony)-5 yrs
Mandatory Minimum Term of Withdrawal:	1.) Driving while impaired 1st off-(A restricted/hardship license may be issued; see §257.625b(2)); 2nd off (w/n 7 yrs)-60 dys (A restricted license may be issued after the 60 dy period; see §257.625b(3); 3rd and subsequent off (w/10 yrs)-1 yr (5 yrs[1]) §257.303(1)(d) and (e)(ii); 2.) Driving while under the influence, 1st off-A restricted hardship license may be issued §257.625(4); 2nd off-1 yr §257.303(1)(d)(i); 3rd and subsequent off (felony)-5 yrs §257.303(1)(d)(ii)

---

[1] If there has been a previous rev of any type within 7 yrs, the rev period is 5 yrs.

Sanctions Following a Conviction for a DWI Offense:
(continued)

- Other:
  - Rehabilitation:
    - Alcohol Education: Yes §§257.625(8) & 257.625b(6)
    - Alcohol Treatment: Yes
    - Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): N/A
  - Vehicle Impoundment/Confiscation:
    - Authorized by Specific Statutory Authority: No
    - Terms Upon Which Vehicle Will Be Released: N/A
    - Other: N/A
    - Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

- Homicide by Vehicle:
  - State Has Such Law/Type of Offense: Yes Misd Death caused by the operation of a vehicle at an immoderate rate of speed or in a careless, reckless, or negligent manner but not wilfully or wantonly. §750.324
  - Sanctions:
    - Criminal Sanction:
      - Imprisonment (Term): Not more than 2 yrs
      - Mandatory Minimum Term: N/A
      - Fine ($ Range): Not more than $2,000
      - Mandatory Minimum Fine: N/A
    - Administrative Licensing Action:
      - Licensing Authorized and Type of Action: Susp (6 points are also accumulated for each off) §257.319(1)(a)
      - Length of Term of Licensing Withdrawal: 90 dys-2 yrs
      - Mandatory Action--Minimum Length of License Withdrawal: N/A
      - Other: N/A
- Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
  - Sanction:
    - Criminal:
      - Imprisonment (Term): 1st off Misd-3 to 90 dys; 2nd and subsequent offs Misd-5 dys to 1 yr §257.904

Other Criminal Actions Related to Alcohol Use and Driving:

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): 1st off-Not more than $100; 2nd and subsequent offs-Not more than $500

Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp or rev

Length of Term of License Withdrawal Action: The original license susp or rev is extended for a like period.

Mandatory Term of License Withdrawal Action: The original license susp or rev is extended a like period.

Habitual Offender Laws:

State Has Such Law (Yes/No): No

Grounds for Being Declared an Habitual Offender: N/A

Term of License Rev While Under Habitual Offender Status: N/A

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): N/A

Mandatory Minimum Fine ($): N/A

Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes

BAC Chemical Test Is Given to the the Following Persons:

Driver: Yes

Vehicle Passengers: No

Pedestrian: No

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (yr eff: 1978) §436.33
Minimum Age (Years) Possession:	21 (Employment exemption) §436.33b(4)
Minimum Age (Years) Consumption:	21 (Applies to licensed premises) §436.33b(1)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	Yes §436.22(5)
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	No
Other:	N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd §§436.22(3) & 436.50
Term of Imprisonment:	Not more than 6 mos
Fine ($ Range):	Not more than $500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, susp or rev §436.20
Length of Term of License Withdrawal:	Period of license susp or rev not specified in the statute (Note: A civil fine is of not more than $300 may be accessed in addition to or in lieu of a susp or rev.)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Misd §§436.22(3) & §436.33
Term of Imprisonment:	Not more than 6 mos §436.50
Fine ($ Range):	Not more than $500

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, susp or rev §436.20
Length of Term License Withdrawal:	Period of license susp or rev not specified in the statute (Note: A civil fine is of not more than $300 may be assessed in addition to or in lieu of a susp or rev.)
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	Yes §436.34a
Anti-Consumption Law (Yes/No):	Yes-Driver and passengers §436.34 (The law states that "No alcoholic liquor shall be consumed on the public highways")

STATE:	**MINNESOTA**
General Comments:	See Minnesota Stat. Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes 0.10% Minn. Stat. Annotated 169. 121(1)(d) 169.123(5a)
Presumption (BAC Level):	N/A
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes (§169.121)
Implied Consent Law:	
Arrest Required (Yes/No):	See Special Note under Other Information column
Other Information:	Special Note: A test can be given if: 1) A person has been lawfully placed under arrest under §169.121 2) If a person has refused to take preliminary screening test; 3) If PBT is refused or shows BAC of 0.10% or more; 4) If a person is involved in an accident resulting in property damage, personal injury, or death.

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	Yes
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §§169.124 and 169.126

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	License rev periods are the same as for implied consent law violations §§169.121 subd 6 & 169.123 subd 2
Other:	N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): N/A

Administrative Licensing Action (Susp/Rev): Rev for not less than 1 yr (A limited license may be issued; see §§169.123 subd 9, & 171.30 subd 1 and §169.123 subd 4)

Other: Special Note: If the person who refused to submit to the chemical test is under 18, their license is revoked for 1 yr or until they are 18 whichever is the greater period of time. (A limited license may be issued.)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): 1st off (Misd)-Up to 90 dys; 2nd off (w/n 5 yrs) and subsequent offs (w/n 10 yrs)(Gross Misd)-Up to 1 yr §§169.121 & 609.03; A DWI off causing injury where there is negligence (Felony) §609.21 subd-2 Not more than 3 yrs; §609.21 subd. 2

Mandatory Minimum Term: N/A

Fine:

Amount ($ Range): 1st off (Misd)-Not more than $700; 2nd off (w/n 5 yrs.) and subsequent offs (w/n 10yrs.)(Gross Misd)-Not more than $3,000; A DWI off causing injury where there is negligence (Felony)-Not more than $3,000

Mandatory Min. Fine ($): N/A

Other Penalties:

Community Service: None

Restitution (eg Victim's Fund) N/A

Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes 0.10% BAC Rev for 90 dys; however, a limited license is available §169.123 subd 4[1]

UVC Type of Provisions: No[1]

Other: N/A

---

[1] If the person is under 18, the rev period is six (6) mos or until they reach 18 whichever is the longer period of time.

Sanctions Following a Conviction for a DWI Offense: (continued)

Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	All offs-Rev
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-Not less than 30 dys; 2nd off (w/n 5 yrs.)-Not less than 90 dys; 3rd off (w/n 5 yrs.)-Not less than 1 yr; 4th and subsequent offs-Not less than 2 yrs[1]
Mandatory Minimum Term of Withdrawal:	None (Special Note: Under §171.30 a limited license may be issued (1) for employment purposes or (2) for attendance at an alcohol treatment program.)
Other:	
Rehabilitation:	
Alcohol Education:	Yes 169.124 and 169.126
Alcohol Treatment:	Yes 169.121(5) 169.124 and 169.126
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	No The court may stay imposition of fine or jail sentence but not license rev if defendant submits to treatment at an authorized dependency facility, as provided by §§169.121 Subd.5 and 609.135 Subd. 1
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A (See Special Note on p. 3-159)
Miscellaneous Sanctions Not Included Elsewhere:	Under driving while suspended or revoked.

---

[1] (Note: 90 additional dys are added to the above rev base periods if the DWI off involved either; a death or an injury.) Special Note: If the defendant is under 18 yrs of age and they are convicted of a DWI off, their license is revoked (1) until they reach 18; (2) for 6 mos; or (3) for the normal period of time for DWI offenders whichever is the greater period of time.)

Other Criminal Actions Related to Alcohol Use and Driving:

- Homicide by Vehicle:
  - State Has Such Law/Type of Offense: Yes (Felony) (Gross negligence causing death while under the influence of alcohol) §609.21 sub. 1
  - Sanctions:
    - Criminal Sanction:
      - Imprisonment (Term): Not more than 5 yrs
      - Mandatory Minimum Term: N/A
      - Fine ($ Range): Not more than $5,000
      - Mandatory Minimum Fine: N/A
    - Administrative Licensing Action:
      - Licensing Authorized and Type of Action: Rev 169.11
      - Length of Term of Licensing Withdrawal: Not specified by statute (Note: See footnote in the Post-DWI Conviction Licensing Section p. 3-158.)
      - Mandatory Action--Minimum Length of License Withdrawal: 60 dys §171.30
      - Other: Special Note: A limited license may be issued after the 60 dy minimum license rev period §171.30 Subd. 2
- Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
  - Sanction:
    - Criminal:
      - Imprisonment (Term): Misd up to 90 dys §171.24 §609.03
      - Mandatory Minimum Term of Imprisonment: N/A
      - Fine ($ Range): Up to $700
      - Mandatory Minimum Fine: N/A
    - Administrative Licensing Actions:
      - Type of Licensing Action (Susp/Rev): Special Note: A violation of §171.24 shall result in a person having their motor veh registration plates and certificate impounded under §168.041.
      - Length of Term of License Withdrawal Action: N/A
      - Mandatory Term of License Withdrawal Action: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

- Habitual Offender Laws:
  - State Has Such Law (Yes/No): No
  - Grounds for Being Declared an Habitual Offender: N/A
  - Term of License Rev While Under Habitual Offender Status: N/A
  - Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A
  - Sanctions Following a Conviction of Driving While on Habitual Offender Status:
    - Imprisonment (Term): N/A
    - Mandatory Minimum Term of Imprisonment: N/A
    - Fine ($ Range): N/A
    - Mandatory Minimum Fine ($): N/A
    - Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

- Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
  - State Has Such a Law (Yes/No): Yes
  - BAC Chemical Test Is Given to the the Following Persons:
    - Driver: Yes
    - Vehicle Passengers: No
    - Pedestrian: Yes, age 16 or older
- Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
  - Minimum Age (Years) Sale/Purchase: 19 (yr eff: 1976) §§340.035 and 340.731
  - Minimum Age (Years) Possession: 19 (Exemption for intent to consume alcoholic beverages in the home)
  - Minimum Age (Years) Consumption: 19 For beer up to 3.2% there is an exemption for consumption in a licensed establishment when the person under 19 is in the company of either a parent or a legal guardian; for all alcoholic beverages there is an implied exemption for home consumption)

Other State Laws Related To Alcohol Use And Driving: (continued)

Dram Shop Laws and Related Legal Actions:
State Has a Dram Shop Law (Yes/No): Yes §340.95
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation Yes Trail v. Christian, 298 Minn. 101, 213 N.W.2d 618 (1973)
Other: N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
Type of Criminal Action: None
Term of Imprisonment: N/A
Fine ($ Range): N/A

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes
Length of Term of License Withdrawal: 5 yrs §340.19(2)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Misd
Term of Imprisonment: Not more than 90 dys
Fine ($ Range): Not more than $500

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, not by the State. Local licensing authority has power
Length of Term License Withdrawal: Varies

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
Open Container Law (Yes/No): Yes §169.122(2) & (3)
Anti-Consumption Law (Yes/No): Yes-Driver and passengers §169.122(1)

STATE:	**MISSISSIPPI**
General Comments:	See: Mississippi Code Annotated.

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	**0.10%** §63-11-30(1)
Presumption (BAC Level):	**No**
Other:	**No**

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	**Yes** §63-11-5
Implied Consent Law:	
Arrest Required (Yes/No):	**No**
Other Information:	Chemical test required on reasonable grounds and probable cause of DWI §63-11-5

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	**Yes** §63-11-5
Urine:	**Yes** §63-11-5
Other:	**N/A**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	**No**
Anti-Plea Bargaining Statute (Yes/No):	**Yes**, a DWI charge may not be reduced of the BAC level of the defendent was 0.10% or more §63-11-39(3)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	**Yes** - Limited Sec. 63-11-30(2)(d)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	**None**
Administrative Licensing Action (Susp/Rev):	**None**
Other:	**N/A**

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	**None**
Administrative Licensing Action (Susp/Rev):	**Susp** for **90 dys** if there has been no previous conviction for a DWI off (§63-11-30). **Susp** for **1 yr** if there has been a previous conviction for a DWI off (§63-11-30) (These susps are mandatory) §63-11-5 & 63-11-23
Other:	Special Note: A de novo Court trial may be held following administrative hearings on these susps; see §63-11-25

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st Off-Not more than **24 hrs**; 2nd Off (w/5 yrs)-**48 cons hrs-1 yr**[1]; 3rd Off (w/n 5 yrs)-**30 dys-1 yr**; Conviction for a DWI off as above where there has been a chemical test refusal (§63-11-30(3))-Not more than **1 yr**; Conviction for a DWI off where there has been negligence resulting in disfigurement, disability, etc., (felony) - Not more than **5 yrs** (Sec. 13 of H.B. 182 in 1983) See generally §63-11-30
Mandatory Minimum Term:	**No**
Fine:	
Amount ($ Range):	1st Off-**$200-500**; 2nd Off (w/n 5 yrs)-**$400-1,000**; 3rd Off (w/n 5 yrs)-**$500-1,000**; Conviction for a DWI off as above where there has been a chemical test refusal (§63-11-30(3)) **$500-1,000**
Mandatory Min. Fine ($):	1st off - **$200**; 2nd off (w/n 5 yrs) - **$400**; 3rd off (w/n 5 yrs) - **$500**; Conviction for a DWI off as above where there has been a chemical test refusal (§63-11-30(3)) - **$500**; §99-19-25
Other Penalties:	
Community Service:	**N/A**
Restitution (ie Victim's Fund)	**None**
Other:	**None**

---

[1] From 10 dys to 1 yr as an alternative to imprisonment.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: **Yes,** limited to encouraging the speedy trial of DWI cases; where the offender has a BAC level of 0.10 if no trial is requested the license susp periods for implied consent violations apply; an accused offender is issued a temporary license by the police for up to 90 dys following license seizure after arrest; the temporary license if first issued by the arresting officer who takes the original license; the temporary license is initially valid for 30 dys but may be extended for two additional 30 dy periods by the Court. §63-11-23(2)

UVC Type of Provisions: **N/A**

Other: **N/A**

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): **Susp - all offs**

Term of License Withdrawal (Days, Months, Years, etc.): 1st off-**90 dys-1 yr**; 2nd off (w/n 5 yrs)-**2 yrs**; 3rd and subsequent offs (w/n 5 yrs)-**3 yrs**

Mandatory Minimum Term of Withdrawal: 1st off-**90 dys** (not less than 45 dys)[1]; 2nd off (w/n 5 yrs)-**1 yr**[1]; 3rd and subsequent offs (w/n 5 yrs)-**1 yr**[1]; DWI off where there has been a chemical test refusal - Same provided above depending upon whether the off is a 1st, 2nd or 3rd off; such susp is in addition to that imposed for chemical test refusal under the implied consent law.[1]

---

[1] Judicial review is not allowed for these susp actions by the licensing agency; see §63-11-26, as they are based on a final DWI adjudication. 1st Off - On completion of the alcohol education program whichever is longer; reduced to not less than 45 dys; restricted hardship license may be issued for the remaining 45 dys; 2nd and Subsequent Offs - License may be reinstated after the completion of an alcohol diagnostic and treatment program; the license cannot be reinstated until after one yr after susp or completion of the program whichever is longer (63-11-30(d)).

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:
  Rehabilitation:
    Alcohol Education: 1st off - Yes-required; See also §63-11-32
    Alcohol Treatment: 2nd and 3rd offs - Yes[1]
    Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): No[1]

  Vehicle Impoundment/Confiscation:
    Authorized by Specific Statutory Authority: None
    Terms Upon Which Vehicle Will Be Released: N/A
    Other: N/A
    Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
  State Has Such Law/Type of Offense: Yes, (Felony) where death is a result of a DWI violation and negligent action by the driver. See Sec. 13 of H.B. 182 as enacted in 1983.
  Sanctions:
    Criminal Sanction:
      Imprisonment (Term): Not more than 5 yrs
      Mandatory Minimum Term: N/A
      Fine ($ Range): N/A
      Mandatory Minimum Fine: N/A

---

[1] Judicial review is not allowed for these susp actions by the licensing agency; see §63-11-26, as they are based on a final DWI adjudication. 1st Off - On completion of the alcohol education program whichever is longer; reduced to not less than 45 dys; restricted hardship license may be issued for the remaining 45 dys; 2nd and Subsequent Offs - License may be reinstated after the completion of an alcohol diagnostic and treatment program; the license cannot be reinstated until after one yr after susp or completion of the program whichever is longer (63-11-30(d)).

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

- Administrative Licensing Action:
  - Licensing Authorized and Type of Action: **Rev** §63-1-51
  - Length of Term of Licensing Withdrawal: **1 yr**
  - Mandatory Action--Minimum Length of License Withdrawal: **N/A**
  - Other: **N/A**

- Driving While License Suspended or Revoked Where the Basis Was a DWI Off:
  - Sanction:
    - Criminal:
      - Imprisonment (Term): **Misd - 48 hrs-6 mos**
      - Mandatory Minimum Term of Imprisonment: **N/A**
      - Fine ($ Range): **$200 to 500**
      - Mandatory Minimum Fine: **N/A**
    - Administrative Licensing Actions:
      - Type of Licensing Action (Susp/Rev): **Susp**
      - Length of Term of License Withdrawal Action: **6-mo susp** added to the original susp period
      - Mandatory Term of License Withdrawal Action: **6-mo susp** added to the original susp period

- Habitual Offender Laws:
  - State Has Such Law (Yes/No): **No**
  - Grounds for Being Declared an Habitual Offender: **N/A**
  - Term of License Rev While Under Habitual Offender Status: **N/A**
  - Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status **N/A**

Other State Laws Related To Alcohol Use And Driving:

- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): **N/A**

Other State Laws Related To Alcohol Use And Driving: (continued)

Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A
Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes §63-11-7
Vehicle Passengers:	No
Pedestrian:	No
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	18 for 4% beer and wine; 21 for all other alcoholic beverages. (Year Eff: 1966) §§67-1-81 & 67-3-53(b)
Minimum Age (Years) Possession:	21 - Applies only to possession in public places of alcoholic beverages of more than 4% alcohol §§67-1-81 & 67-3-53(b)
Minimum Age (Years) Consumption:	N/A
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes, Munford, Inc. v. Peterson, 368 So. 2d 213 (Miss. 1979)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Misd §§67-1-71, 67-3-53, & 67-3-69
Term of Imprisonment:	Not more than 6 mos §§67-1-71, 67-3-53, & 67-3-69
Fine ($ Range):	Not more than $500 §§67-1-71, 67-3-53, & 67-3-69
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Rev (A limited susp may be imposed in lieu of rev)

Other State Laws Related To Alcohol Use And Driving: (continued)

Length of Term of License Withdrawal:	2 yrs (Void for at least 1 yr-mandatory if beer or wine is given to an intoxicated person)
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Selling alcoholic beverages to those under 21, 1st off-Misd; 2nd and subsequent offs-Misd; Selling to a person under 18 beer and wine under 4% alcohol by weight-Misd; Miss. Code Ann. §§67-1-71, 67-1-81, and 67-3-53.
Term of Imprisonment:	Selling alcoholic beverages to those under 21, 2nd and subsequent offs-Not more than 1 yr; Selling to a person under 18 beer and wine under 4% alcohol by weight-Not more than 6 mos; Miss. Code Ann. §§67-1-71, 67-1-81, and 67-3-53.
Fine ($ Range):	Selling alcoholic beverages to those under 21, 1st off- $500-1,000; 2nd and subsequent offs- $1,000-2,000; Selling to a person under 18 beer and wine under 4% alcohol by weight-Not more than $500; Miss. Code Ann. §§67-1-71, 67-1-81, and 67-3-53.
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Selling alcoholic beverages to those under 21, 1st Off-Rev[1]; 2nd and subsequent Off-Automatic Rev; Selling to a person under 18 beer and wine under 4% alcohol by weight-Rev[1]
Length of Term License Withdrawal:	Selling alcoholic beverages to those under 21, 1st off-2 yrs; 2nd and subsequent offs-Permanently; Selling to a person under 18 beer and wine under 4% alcohol by weight-2 yrs (void for at least 1 yr--Mandatory)
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

---

[1] A limited susp may be imposed in lieu of rev.

STATE: **MISSOURI**

General Comments: See Vernon's Annotated Missouri Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% §577.012

Presumption (BAC Level): No

Other: A BAC of 0.10 or more is prima facie evidence of intoxication §577.037

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No

Implied Consent Law:

- Arrest Required (Yes/No): Yes §577.020(1)
- Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes

Urine: Yes

Other: Saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No

Anti-Plea Bargaining Statute (Yes/No): No

Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

- Criminal Sanctions (Fine/Jail): N/A
- Administrative Licensing Action (Susp/Rev): N/A
- Other: N/A

Refusal to Take Implied Consent Chemical Test

- Criminal Sanction (Fine/Jail): N/A
- Administrative Licensing Action (Susp/Rev): 1st Refusal- Rev 1 yr (A restricted hardship license may be issued); 2nd Refusal (w/n 5 yrs)-Rev, 1 yr (Mandatory); §§302.309(5)(d) & 577.041
- Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	Intoxicated off, 1st off Cl B Misd-not more than **6 mos**; Per se off, 1st off Cl C Misd-not more than **15 dys**; Intoxicated/illegal per se offs, 2nd off (w/n 5 yrs) Cl A Misd-not more than **1 yr**; and subsequent off (w/n 10 yrs) - Cl D Felony - Not more than **5 yrs**
Mandatory Minimum Term:	Intoxicated/illegal per se offs, 2nd off (w/n 5 yrs)-**48 cons hrs** §§577.010 et seq: 577.011: 558.011: 560.011: and 560.016.
Fine:	
Amount ($ Range):	Intoxicated off, 1st off-Not more than **$500**; Per se off, 1st off-Not more than **$300**; Intoxicated/illegal per se off, 2nd off (w/n 5 yrs)-Not more than **$1,000**; 3rd and subsequent offs (w/n 10 yrs)-Not more than **$5,000**
Mandatory Min. Fine ($):	**None**
Other Penalties:	
Community Service:	In lieu of imprisonment, the defendant performs at least 10 dys (involving at least 40 hrs) of community service
Restitution (eg Victim's Fund)	Victim's compensation fund; applies to all offs; however, injury must have been intentionally inflicted for the victim to be compensated (defendants pay $26 to the Court; $25 is remitted to the State for the fund and $1 is retained by the Court for admin. expenses) §§595.010 and 575.045
Other:	For a first off, the sentence may be suspended provided the defendant is placed on probation for a minimum of two (2) yrs; see §577.010(2)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	**Yes-0.13% BAC** (1) If there has been no prior alcohol related enforcement conviction w/5 yrs, susp for 30 dys with a restricted license for an additional 60 dys[1];(2) if there has been such prior contact (w/5 yrs), Rev for 1 yr[2]. However, if the defendant has accumulated sufficient points together with an illegal per se conviction, their license is suspended by the licensing agency for a mandatory 30 dy period which may be followed by restricted hardship driving privileges for 60 dys. See §302.304 sub. 4; exception: A court may still grant restricted hardship driving privileges for the entire susp period; see §302.309 sub. 3(5).
UVC Type of Provisions:	**No**
Other:	**N/A**
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Intoxicated off, 1st off-Point system 8 points; Per se off, 1st off-6 points[3]; Intoxicated/illegal Per se offs, 2nd off-12 points; 3rd and subsequent offs (w/n 5 yrs)-12 points
Term of License Withdrawal (Days, Months, Years, etc.):	Intoxicated off, 1st off-30-90 dys[1]; Per se off, 1st off-30-90 dys[1]; Intoxicated/illegal per se offs, 2nd off-1 yr; 3rd and subsequent offs (w/n 5 yrs)-1 yr

---

[1] A court may grant restricted driving privileges for employment reasons; see §302.309 sub sec. 3. If the Court doesn't grant such privileges, the licensing agency must suspend the driver's license for a 30 dy mandatory period followed by restricted licensing/privileges for 6 dys.

[2] For second or subsequent (1) illegal per se offs under §577.012 (Not intoxicated offs under §577.010) or (2) admin. per se actions under §302.505 (read carefully §302.309 sub sec. 3), a court may grant restricted driving privileges for employment purposes provided the defendant has not received such privileges within the past 5 yrs.

[3] License susp action would occur only if the defendant had at least 2 more points on his/her record from some other driving off: i.e., a first illegal per se off conviction alone would not result in a license susp action. §§302.302, 302 and 302.304(4) and 302.304(b).

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Minimum Term of Withdrawal: Intoxicated off 1st off - **None**; Per se off 1st off - **None**; Intoxicated/illegal per se offs 2nd off 1 yr[2]; 3rd and subsequent offs (w/5 yrs.) 1 yr[2]
Note: Under the point system 8 points equals a susp. For a first suspension the time period is 30 dys; for a 2nd it is 60 dys, and for a 3rd and it is 90 dys -- 12 points in 12 mos or 18 points in 24 mos or 24 points in 36 mos equals rev for 1 yr.

Other:
Rehabilitation:
Alcohol Education: Intoxicated off, 1st off-**Yes**[1]; Per se off-1st off-**Yes**[1]
Alcohol Treatment: Intoxicated off, 1st off-**Yes**[1]; Per se off, 1st off-**Yes**[1]
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): **N/A**
Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: **No**
Terms Upon Which Vehicle Will Be Released: **N/A**
Other: **N/A**
Miscellaneous Sanctions Not Included Elsewhere: **N/A**

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Offense: **Yes** (Cl C felony) Veh homicide where death is caused by operating a motor vehicle while in an intoxicated condition or under the influence of controlled substances or drugs. §577.005

---

[1] Intoxicated off, 1st off and Per se off 1st off-Alternative to criminal sanctions; Ann. Mo. Stat. §§577.049

[2] For second or subsequent (1) illegal per se offs under §577.012 (Not intoxicated offs under §577.010) or (2) admin. per se actions under §302.505 (read carefully §302.309 sec. 3), a court may grant restricted driving privileges for employment purposes provided the defendant has not received such privileges within the past 5 yrs.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Not more than 7 yrs; §577.005
Mandatory Minimum Term:	N/A
Fine ($ Range):	Not more than $5,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev - (12 points)
Length of Term of Licensing Withdrawal:	1 yr
Mandatory Action--Minimum Length of License Withdrawal:	1 yr
Other:	Victim's compensation fund; see §§595.010 et seq.

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:	
Criminal:	
Imprisonment (Term):	Not more than 1 yr (Cl A misd) 302.302 and 302.321
Mandatory Minimum Term of Imprisonment:	48 cons hrs (In lieu of imprisonment, the defendant performs at least 10 dys (involving at least 48 hrs of community service.)
Fine ($ Range):	Not more than $1,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Rev (12 points)
Length of Term of License Withdrawal Action:	1 yr
Mandatory Term of License Withdrawal Action:	1 yr

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	**Yes**; Ann. Mo. Stat. §§58.445, 58.447 and 58.449
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	**Yes**
Vehicle Passengers:	**Yes**
Pedestrian:	**Yes**
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	**21** - Ann. Mo. Stat. §311.325 (Year Eff: 1945)
Minimum Age (Years) Possession:	**21** - §312.407
Minimum Age (Years) Consumption:	**N/A**
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	**No**
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation:	**Yes**, Sampson v. W. F. Enterprises, Inc., 611 S.W. 2d 333 (CA. 1981) and Carver v. Schafer, 647 S.W. 2d 570 (CA. 1983)
Other:	**N/A**
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	**Misd** - §§311.310, 311.720, and 311.880
Term of Imprisonment:	Not more than **1 yr**
Fine ($ Range):	**$50-1,000**

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

- License to Serve Alcoholic Beverages Withdrawn (Yes/No): Rev
- Length of Term of License Withdrawal: Not specified in the statute

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

- Type of Criminal Action: Misd
- Term of Imprisonment: Not more than 1 yr
- Fine ($ Range): $50-1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

- License to Serve Alcoholic Beverages Withdrawn (Yes/No): Rev
- Length of Term License Withdrawal: Not specified in the statute

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

- Open Container Law (Yes/No): No
- Anti-Consumption Law (Yes/No): No

STATE: **MONTANA**
General Comments: See Montana Revised Codes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10 Sec. 4 of Ch. 698 of the laws of 1983 (H.B 540)
Presumption (BAC Level): 0.10 61-8-401(3)(c)
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
- Arrest Required (Yes/No): Yes 61-8-402
- Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 61-8-402(1)
Urine: Yes 61-8-402(1)
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): No (Note: PSI given if crime carries a prison sentence of 1 yr or more) 46-18-111

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
- Criminal Sanctions (Fine/Jail): N/A
- Administrative Licensing Action (Susp/Rev): N/A
- Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): Intoxicated off, 1st off Cl B Misd-not more than **6 mos**; Per se off, 1st off Cl C Misd-not more than **15 dys**; Intoxicated/illegal per se offs, 2nd off (w/n 5 yrs) Cl A Misd-not more than **1 yr**; and subsequent off (w/n 10 yrs) - Cl D Felony - Not more than **5 yrs**

Mandatory Minimum Term: Intoxicated/illegal per se offs, 2nd off (w/n 5 yrs)-**48 cons hrs** §§577.010 et seq: 577.011: 558.011: 560.011: and 560.016.

Fine:

Amount ($ Range): Intoxicated off, 1st off-Not more than **$500**; Per se off, 1st off-Not more than **$300**; Intoxicated/illegal per se off, 2nd off (w/n 5 yrs)-Not more than **$1,000**; 3rd and subsequent offs (w/n 10 yrs)-Not more than **$5,000**

Mandatory Min. Fine ($): **None**

Other Penalties:

Community Service: In lieu of imprisonment, the defendant performs at least 10 dys (involving at least 40 hrs) of community service

Restitution (eg Victim's Fund) Victim's compensation fund; applies to all offs; however, injury must have been intentionally inflicted for the victim to be compensated (defendants pay $26 to the Court; $25 is remitted to the State for the fund and $1 is retained by the Court for admin. expenses) §§595.010 and 575.045

Other: For a first off, the sentence may be suspended provided the defendant is placed on probation for a minimum of two (2) yrs; see §577.010(2)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other Penalties:
- Community Service: N/A
- Restitution (eg Victim's Fund) N/A
- Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:
- Administrative Per Se Law: None
- UVC Type of Provisions: N/A
- Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): DWI offs[2], 1st Off-Susp; 2nd off (w/n 5 yrs)-Rev; 3rd and subsequent off (w/n 5 yrs)-Rev; §§61-5-205 & 61-5-208; Illegal Per Se offs, 1st Off-Susp; 2nd Off (w/n 5 yrs)-Rev; 3rd and subsequent off (w/n 5 yrs)-Rev; §11 of Ch. 698 of the laws of 1983 (H.B. 540)

Term of License Withdrawal (Days, Months, Years, etc.): DWI Offs[2], 1st Off-6 mos; 2nd off (w/n 5 yrs)-1 yr; 3rd and subsequent off (w/n 5 yrs)-1 yr 61-5-208; Illegal Per Se Offs, 1st off-6 mos; 2nd off (w/n 5 yrs)-1 yr; 3rd and subsequent off (w/n 5 yrs)-1 yr §§61-5-205 and 61-5-208

Mandatory Minimum Term of Withdrawal: DWI Offs, 1st Off-Under §61-11-161 A restricted probationary license may be issued in lieu of a susp on the condition that the person attends an alcohol treatment program if available; 2nd off (w/n 5 yrs)-1 yr[1]; 3rd and subsequent off (w/n 5 yrs)-1 yr[1]; §61-5-208(3); Illegal Per Se Offs - Same as for DWI offs

---

[1] Special Note: Under 61-11-203(2)(d) a person receives 10 points on their driving record for either a regular DWI or an illegal per se off conviction.

[2] DWI offs except illegal per se.

Sanctions Following a Conviction for a DWI Offense: (continued)

- Other:
  - Rehabilitation:
    - Alcohol Education: **Yes** all offs; (Either an alcohol education or alcohol treatment program is required. 61-8-714(4)); Illegal Per Se offs - For any illegal Per Se off there is a mandatory requirement for the defendant to participate in either an alcohol education or treatment program. See §11 of Ch. 698 of the laws of 1983 (H.B. 540)
    - Alcohol Treatment: **Yes**
    - Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): 1st DWI Off-**Yes** (see §61-11-101)
  - Vehicle Impoundment/Confiscation:
    - Authorized by Specific Statutory Authority: **No**
    - Terms Upon Which Vehicle Will Be Released: **N/A**
    - Other: **N/A**
    - Miscellaneous Sanctions Not Included Elsewhere: **N/A**

Other Criminal Actions Related to Alcohol Use and Driving:

- Homicide by Vehicle:
  - State Has Such Law/Type of Off: **No**
  - Sanctions:
    - Criminal Sanction:
      - Imprisonment (Term): **N/A**
      - Mandatory Minimum Term: **N/A**
      - Fine ($ Range): **N/A**
      - Mandatory Minimum Fine: **N/A**
    - Administrative Licensing Action:
      - Licensing Authorized and Type of Action: **N/A**
      - Length of Term of Licensing Withdrawal: **N/A**
      - Mandatory Action--Minimum Length of License Withdrawal: **N/A**

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Other: Special Note: Even though this State does not have a vehicle homicide statute, it nevertheless, provides for a 1 yr license rev following a conviction for manslaughter resulting from the operation of a motor vehicle; this action is not mandatory as such action may be stayed if a person complies with the terms of a driver improvement program.

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Misd - 2 dys to 6 mos; 61-5-212

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): Not more than $500; 61-5-212

Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp or rev; 61-5-212

Length of Term of License Withdrawal Action: The period of such susp or rev extended for an additional like period; 61-5-212

Mandatory Term of License Withdrawal Action: The period of such susp or rev extended for an additional like period.

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes

Grounds for Being Declared an Habitual Offender: Accumulation of 30 points in a 5 yr period

Term of License Rev While Under Habitual Offender Status: 3 yrs

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Misd; §§61-11-201 and 61-11-215

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): Not more than 1 yr

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): Not more than $1,000

Mandatory Minimum Fine ($): N/A

Licensing Actions (Specify): N/A

STATE - Montana

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 - Note: See Mont. Code Ann. §16-3-301(a).) (Year Eff: 1979); §§16-3-301-(2)(a) & 16-6-305
Minimum Age (Years) Possession:	N/A; §§16-301-(2)(a) & 16-6-305
Minimum Age (Years) Consumption:	19 Exemptions for medical purposes and for parents giving alcoholic beverages to their children who are under 19 §§16-3-301-(2)(a) & 16-6-305
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	No (Note: See Range v. Watts, 589 P.2d 145 (1979) and 45 AM Jur. 2d, Intoxicating Liquors §554.)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Misd (Note: See Mont. Code Ann. §§16-3-301, 16-6-304, 16-6-305, and 46-18-212.)
Term of Imprisonment:	Not more than 6 mos
Fine ($ Range):	Not more than $500 (Note: A civil fine may be assessed by the licensing agency and such fine is not to exceed $1,500.)

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	**Susp** or rev (Note: See Mont. Code Ann. §16-4-406.)
Length of Term of License Withdrawal:	Not be more than 3 mos, the period of rev is not specified in the statute
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	**Misd**
Term of Imprisonment:	Not more than **6 mos**
Fine ($ Range):	Not more than **$500** (Note: A civil fine may be assessed by the licensing agency and such fine is not to exceed $1,500.)
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	**Susp or rev**
Length of Term License Withdrawal:	The period of susp may not be more than 3 mos; The period of susp may not be specified in the statute
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	**Yes**[1]; §16-3-106(2)
Anti-Consumption Law (Yes/No):	**Yes** - Driver and passengers §16-3-106(2)

---

[1] The law states that "no common carrier or any other person shall open, break, or allow to be opened or broken any package or vessel containing liquor or drink or allow to be drunk or used any liquor there from while being carried or conveyed."

STATE: **NEBRASKA**
General Comments: See Revised Statutes of Nebraska

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): **0.10%** §39-669.07
Presumption (BAC Level): **No**
Other: **No**

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: **Yes** §39-669.08(3)
Implied Consent Law:
- Arrest Required (Yes/No): **Yes** §39-669.08(2)
- Other Information: **N/A**

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: **Yes**
Urine: **Yes**
Other: **N/A**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): **No**
Anti-Plea Bargaining Statute (Yes/No): **No**
Pre-Sentencing Investigation Law (PSI) (Yes/No): **Yes**

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
- Criminal Sanctions (Fine/Jail): **$100 fine**; No imprisonment §§28-106 & 39-669.08
- Administrative Licensing Action (Susp/Rev): **No**
- Other: **No**

Refusal to Take Implied Consent Chemical Test
- Criminal Sanction (Fine/Jail): Cl W misds, 1st off-**7 dys + $200** (Maximum); 2nd off-**30 dys** (48 hrs Minimum + $500); 3rd and subsequent-**3 mos-6 mos** (maximum) (7 dys minimum) (Cl W misds); §§28-106 & 39-669.08; Note: The court must impose the minimum sanction even if it suspends sentence or places a person on probation

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Administrative Licensing Action (Susp/Rev):	1st off-**Rev** 6 mos (60 dy minimum); 2nd off-**1 yr** (6 mos minimum); 3rd off-**Permanently** (1 yr minimum) 28-106 and 39.669.08 Note: The Court must impose the minimum license revocation periods even if it suspends sentence or places a person on probation.
Other:	**N/A**

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-**7 dys**; 2nd off-**30 dys**; 3rd and subsequent offs - **3 to 6 mos**; (Cl W misds) §28-106; §39-669.07
Mandatory Minimum Term:	1st off- **None**; 2nd off-**48 hrs**; 3rd and subsequent offs - **7 dys**; (Cl W misds) (The court must impose these minimum criminal sanctions even if it suspends sentence or places a person on probation.)
Fine:	
Amount ($ Range):	1st off- **$200**; 2nd off-**$300**; 3rd and subsequent offs- **$500**
Mandatory Min. Fine ($):	**No**
Other Penalties:	
Community Service:	**N/A**
Restitution (eg Victim's Fund)	**N/A**
Other:	Persons must attend and successfully complete a driver's education program of at least 8 hrs duration. §39-669.27
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	**None**
UVC Type of Provisions:	**None**
Other:	**N/A**
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	**Rev** (A conviction automatically accumulates sufficient points to have license revoked administratively) §39-669.07 (see also §60-424)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.):	1st off-6 mos; 2nd off-1 yr; 3rd off-Permanently §39-669.07
Mandatory Minimum Term of Withdrawal:	1st off-60 dys; 2nd off-6 mos; 3rd off - 1 yr; §39-669.07 (The court must impose these minimum license revocation periods even if it suspends sentence or places a person on probation.)
Other:	
Rehabilitation:	
Alcohol Education:	**Yes** Convicted persons may be required to attend an alcoholism treatment program as a term of probation. §39-669.07
Alcohol Treatment:	**Yes** see above
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe):	**N/A**
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	**No**
Terms Upon Which Vehicle Will Be Released:	**N/A**
Other:	**N/A**
Miscellaneous Sanctions Not Included Elsewhere:	**N/A**

Other Criminal Actions Related to Alcohol Use and Driving:

Special Note: There are two veh homicide laws; one in the rules of road sec. of the Veh. Code) and the other in the Criminal Code

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	**Yes** (Veh. Code)Sec. 39-669.20 (Crim. Code) Secs. 28-306, 28-105, & 28-106 which provided for is a Cl I Misd (unintentional death caused while operating a motor veh in violation of law except as noted) and a Cl IV Felony (if homicide was the result of DWI, reckless driving or willful reckless driving)
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	**6 mos** - Sec. 39-669.20 (Veh. Code); (Crim. Code) Cl I Misd-1 yr; Cl IV Felony-5 yrs Secs. 28-306, 28-105 and 28-106
Mandatory Minimum Term:	**None**
Fine ($ Range):	**$500** - Sec. 39-669.20 (Veh. Code); Cl I Misd-$1,000; Cl IV Felony-$10,000
Mandatory Minimum Fine:	**None**

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:	
Licensing Authorized and Type of Action:	**Rev** - Sec. 39-669.20 (Veh. Code); Cl I Misd-**Rev**; Cl IV Felony-**Rev**; (A person must also attend and successfully complete a driver's education course of at least 8 hrs duration.)
Length of Term of Licensing Withdrawal:	For all offenses - court discretion (but at least the mandatory period of time)
Mandatory Action--Minimum Length of License Withdrawal:	For all offenses - **6 mos**
Other:	**N/A**
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off Cl III Misd-**3 mos**; 2nd off Cl III Misd-**3 mos**; If license permanently revoked, i.e., a 3rd or subsequent DWI off or 3rd or subsequent refusal to submit to a chemical test--A class IV felony-**5 yrs**
Mandatory Minimum Term of Imprisonment:	**None**
Fine ($ Range):	1st off, Cl III Misd-**$500**; 2nd off, Cl III Misd-**$500**; If license permanently revoked, i.e., a 3rd or subsequent DWI off or 3rd or subsequent refusal to submit to a chemical test, a Cl IV felony-**$10,000**
Mandatory Minimum Fine:	**None**
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	1st off-Driver ordered not to operate any motor veh; 2nd off-Driver ordered not to operate any motor veh; Special Note: Under §60-430.06, a motor veh, operated by any person whose license has either been revoked or suspended, may be impounded for a period of time not exceeding 30 dys)

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Length of Term of License
Withdrawal Action: 1st off-1 yr; 2nd off-2 yrs
Mandatory Term of License
Withdrawal Action: 1st off-1 yr; 2nd off-2 yrs

Habitual Offender Laws:
State Has Such Law (Yes/No): No
Grounds for Being Declared an Habitual Offender: N/A
Term of License Rev While Under Habitual Offender Status: N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:
Imprisonment (Term): N/A
Mandatory Minimum Term of Imprisonment: N/A
Fine ($ Range): N/A
Mandatory Minimum Fine ($): N/A
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
State Has Such a Law (Yes/No): Yes
BAC Chemical Test Is Given to the the Following Persons:
Driver: Yes, if dead within 4 hrs of the accident.
Vehicle Passengers: No
Pedestrian: Yes, if at least 16 yrs old and died within 4 hrs of the accident.

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
Minimum Age (Years) Sale/Purchase: 21; (Year Eff: 1985)
Minimum Age (Years) Possession: 21; Exemptions for possession in minor's "permanent place of residence" and for certain employment purposes by those 19 yrs old or older; §§53-102, 53-103(2), 53-103(3), & 53-180.2
Minimum Age (Years) Consumption: N/A

Other State Laws Related To Alcohol Use And Driving:

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation:	No (Note: see Holmes v. Circo, 244 N.W.2d 65 (1976)
Other:	N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Cl III Misd; §53-180 §53-180.05
Term of Imprisonment:	0-3 mos
Fine ($ Range):	$0-500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes; §53-128 §53-1,104
Length of Term of License Withdrawal:	Indeterminate

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Cl III Misd; §53-180 §53-180.05
Term of Imprisonment:	0-3 mos
Fine ($ Range):	$0-500

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes; §53-128, §53-1,104
Length of Term License Withdrawal:	Indeterminate

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	**No**
Anti-Consumption Law (Yes/No):	**Yes** - Driver and passengers; §53-186 (The consumption of alcoholic liquors inside vehs on public roadways is unlawful "unless authorized" by the State or local government having jurisdiction over the particular public roadway where the consumption is to take place.)

STATE: NEVADA
General Comments: See Nevada Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes, 0.10% 484.379(1)(b)
Presumption (BAC Level): Yes, 0.10% 484.381(1)
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes 484 as amended by §2 of Ch.426 of the laws of 1983

Implied Consent Law:
Arrest Required (Yes/No): Yes 484.383(1)
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 484.383(1)
Urine: Yes 484.383(1)
Other: Or other unspecified bodily substances 484.383(1)

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): Yes (Note: A DWI charge cannot be exchanged for a lesser charge unless there is no evidence to support such a DWI charge.) (Nev. Rev. Stat. §§484.379 and 484.379(5).) 484.379(5)
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes Required only for felony offs (Nev. Rev. Stat. §176.135.)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): No
Administrative Licensing Action (Susp/Rev): Rev-90 dys Laws of 1983, chapter 426 Sec. 3
Other: N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st Refusal - Rev 1 yr mandatory; 2nd or subsequent Refusals (w/n 7 yrs) - Rev 3 yrs mandatory; S484.385 and S3 of 426 of the laws of 1983
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	All DWI offs are misds
Term (Day, Month, Years, Etc.):	1st off-2 dys-6 mos; 2nd off (w/n 7 yrs) - 10 dys-6 mos; 3rd and subsequent off (w/n 7 yrs)-1-6 yrs; 484.379 et. seq. and §§10 & 11 of ch. 426 of the laws of 1983.
Mandatory Minimum Term:	1st off- 2 dys (1 dy if rehabilitation is taken); 2nd off (w/n 7 yrs) - 10-dys (5 dys if rehabilitation is taken); 3rd and subsequent off (w/n 7 yrs)-1 yr [1](30 dys if rehabilitation is taken)
Fine:	
Amount ($ Range):	1st off-$200-1,000; 2nd off (w/n 7 yrs)-$500-1,000; 3rd and subsequent off (w/n 7 yrs)-$2,000-5,000; Special Note: 1st off and 2nd off (w/n 7 yrs)-If rehabilitation is taken, the fine can be no more than the minimum fine indicated.
Mandatory Min. Fine ($):	N/A
Other Penalties:	
Community Service:	1st off-48 hrs (Alternative to imprisonment) (24 hrs, if rehabilitation is taken)
Restitution (ie Victim's Fund)	None
Other:	None
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes -- 0.10 BAC Level; License rev 90 dys; §§3 & 15 of ch. 426 of the laws of 1983
UVC Type of Provisions:	No
Other:	N/A

---

[1] At least 48 hrs. must be served cons; Para. 4 of Sec. 10 of Ch. 426 of the laws of 1983.

STATE - Nevada

Sanctions Following a Conviction for a DWI Offense:
(continued)

	Note: If a license rev for a DWI off conviction follows one for an admin. per se action, the admin. per se rev is cancelled. The driver shall be given credit towards any DWI off conviction rev period for any time he/she was not eligible for a license under the admin. per se rev. Also, following the cancellation of the administrative per se rev, the legal provisions, concerning min. mandatory terms of license withdrawal and issuance of restricted licenses after a DWI off conviction, would apply
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off-Rev; 2nd off (w/n 7 yrs)-Rev; 3rd and subsequent offs (w/n 7 yrs)-Rev; 483.460; (See also Secs. 22 & 23 of ch. 426 of the laws of 1983)
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-90 dys [1] (restricted license allowed); 2nd off (w/n 7 yrs)-1 yr; 3rd and subsequent off (w/n 7 yrs.)-3 yr [1]
Mandatory Minimum Term of Withdrawal:	1st off-45 dys [1]; 2nd off (w/n 7 yrs)-1 yr (483.460(1)(b)(5)); 3rd and subsequent offs (w/n 7 yrs)-1 1/2 yrs
Other:	
Rehabilitation:	
Alcohol Education:	N/A
Alcohol Treatment:	For all offs - Yes
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe):	Yes[1] for all offs except death or bodily injury offs
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	None
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

---

[1] 1st off - After half of the rev period has passed and the DWI offender has completed treatment a treatment program, (Secs. 483.460(c)(2) and (3), a restricted license may be issued (483.490(2)) and SS22 and 23 of Ch. 426 of the laws of 1983.

200

STATE - Nevada

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes, if death results from a DWI off; 484.3795 (see Special Note under "Sanctions: Other")
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	1 to 6 yrs
Mandatory Minimum Term:	1 yr (This sentence may not be suspended nor may probation be granted.)
Fine ($ Range):	$2,000-5,000
Mandatory Minimum Fine:	$2,000 (This sentence may not be suspended nor may probation be granted.)
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev 483.460
Length of Term of Licensing Withdrawal:	3 yrs (Note: For any non-alcohol related death caused by veh operations, the driver's license is revoked for 1 yr; see §483.460(1)(b)(1))
Mandatory Action--Minimum Length of License Withdrawal:	3 yrs
Other:	Special Note: NRS 484.3795 also applies to substantial bodily harm, as well as death, caused as a result of a DWI off.
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Misd - 30 dys-6 mos 483.560
Mandatory Minimum Term of Imprisonment:	30 dys
Fine ($ Range):	$500-1,000
Mandatory Minimum Fine:	$500
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	For driving on a suspended license--a susp; For driving on a revoked license--Rev; 483-560

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Length of Term of License Withdrawal Action:	The original susp period extended a like period The original rev extended 1 yr 483-560
Mandatory Term of License Withdrawal Action:	The original susp period extended a like period; The original rev extended 1 yr; 483.560; (Note: The restricted license provisions of 483.490(2), as noted in the Sanction After DWI/Pre-Sentencing - DWI Term of License Withdrawal heading may apply.)
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes, see §484.394
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1933) §§202.020 & 202.055
Minimum Age (Years) Possession:	N/A §§202.020 & 202.055
Minimum Age (Years) Consumption:	21 Applies to any place where alcoholic beverages are sold. §§202.020 & 202.055

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	No Note: See Hamm v. Carson City Nugget, 450 P.2d 358 (Nev. 1969) and Yoscovitch v. Wasson, 645 P.2d 975 (Nev. 1982)
Other:	N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	No (Note: The State allows local governments broad power to license and regulate liquor retail establishments. Therefore, local laws may have been enacted to control the sale of alcoholic beverages to intoxicated persons.)
Term of Imprisonment:	N/A
Fine ($ Range):	N/A

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	N/A
Length of Term of License Withdrawal:	N/A

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Misd
Term of Imprisonment:	Not more than 6 mos
Fine ($ Range):	Not more than $1,000

STATE - Nevada

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	(Note: Controlled by local law.)
Length of Term License Withdrawal:	(Note: Controlled by local law.)
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes, driver only §484.378 (The law states that "it is unlawful for any person to drink any intoxicating liquor in a motor veh while such person is driving such motor veh upon a highway.")

STATE: NEW HAMPSHIRE
General Comments: See New Hampshire Revised Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% 265:82(I)(b) & 265:82-a(II)
Presumption (BAC Level): None
Other: A BAC level of 0.10% is *prima facie* evidence of intoxication. 265:89

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes 265:92-a
Implied Consent Law:
Arrest Required (Yes/No): Yes 265:84
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 265:84
Urine: Yes 265:84
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No (Note: The law requires to the filing of reports on plea bargaining agreements; these reports are, therefore, public records and are available for public inspection, 265:82-c)
Pre-Sentencing Investigation Law (PSI) (Yes/No): No, see §651:4

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): None
Administrative Licensing Action (Susp/Rev): None
Other: N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (Continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st refusal where there has been no previous DWI off-Rev for 90 dys; 2nd refusal or a 1st refusal where there has been a previous DWI off-Rev for 1 yr; 265:92
Other:	Special Note: These Revs are mandatory.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-Violation; No term of imprisonment 2nd and subsequent offs (w/n 7 yrs.) Misd-Not more than 1 yr; 265:82-b(I) & 651:2; Where there is either serious bodily injury or a 0.02% BAC level Misd.-Not more than 1 yr; 265:82-b(II) & 651:2
Mandatory Minimum Term:	1st off-Violation; 2nd and subsequent off (w/n 7 yrs)-Misd, 7 cons 24 hr periods; 265:82-b(III)
Fine:	
Amount ($ Range):	1st off-Violation None, not more than $1,000; 2nd and subsequent offs (w/n 7 yrs) Misd-Not more than $1,000; Where there is either serious bodily injury or a 0.20% BAC level Misd- $350-1,000
Mandatory Min. Fine ($):	Where there is either serious bodily injury or a 0.20% BAC level - Misd, $350; 265:82-b(III)
Other Penalties:	
Community Service:	N/A
Restitution (ie Victim's Fund)	N/A
Other:	N/A

Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off-Rev; 2nd off (w/n 7 yrs.)-Rev; 3rd and subsequent offs (w/n 10 yrs)-Rev; Where there has been either a serious bodily injury or a BAC level of 0.20%-Rev; (Note: See rehabilitation section for this state.)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.): 1st off-90 dys-2 yrs; 2nd off (w/n 7 yrs)-3 yrs; 3rd and subsequent offs (w/n 10 yrs)-Indefinitely; Where there has been either a serious bodily injury or a 0.20% BAC level -1 yr

Mandatory Minimum Term of Withdrawal: 1st off-90 dys; 2nd off (w/n 7 yrs)-3 yrs; 3rd and subsequent offs (w/n 10 yrs)-3 yrs; Where there has been either a serious bodily injury or a 0.20% BAC level-1 yr; 265:82-b(III)

Other:

Rehabilitation:

Alcohol Education: Yes (Must be completed before license can be restored for any alcohol related driving off; 263:65a)

Alcohol Treatment: N/A

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: None

Terms Upon Which Vehicle Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Off: Yes - Cl B felony applies only if death results from the reckless operation of a motor veh; 262-A:61 & 265:79

Sanctions:

Criminal Sanction:

Imprisonment (Term): Not more than 7 yrs; 262-A:61

Mandatory Minimum Term: N/A

Fine ($ Range): Not more than $2,000; 262-A:61

Mandatory Minimum Fine: N/A

Administrative Licensing Action:

Licensing Authorized and Type of Action: Rev

Length of Term of Licensing Withdrawal: Up to 7 yrs

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Action--Minimum Length of License Withdrawal: N/A
Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
Sanction:
Criminal:
Imprisonment (Term): Misd - Not more than 1 yr; 263:364
Mandatory Minimum Term of Imprisonment: 7 cons 24 hrs periods
Fine ($ Range): Not more than $1,000
Mandatory Minimum Fine: N/A
Administrative Licensing Actions:
Type of Licensing Action (Susp/Rev): N/A
Length of Term of License Withdrawal Action: N/A
Mandatory Term of License Withdrawal Action: N/A

Habitual Offender Laws:
State Has Such Law (Yes/No): Yes see §§262-B:1 to 10, 262-23 and 262-B:21
Grounds for Being Declared an Habitual Offender: 3 serious offs or 12 moving violations within a 5-yr period
Term of License Rev While Under Habitual Offender Status: 4 yrs, 262-B:7
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status Note: Type of off is not specified in the statute. It is probably a Cl B felony with modifications in the penalty as provided in the habitual offender law.
Sanctions Following a Conviction of Driving While on Habitual Offender Status:
Imprisonment (Term): 1-5 yrs
Mandatory Minimum Term of Imprisonment: 1 yr
Fine ($ Range): No fine stated in statute
Mandatory Minimum Fine ($): N/A
Licensing Actions (Specify): No specific licensing action provided for this off

STATE - New Hampshire

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

- State Has Such a Law (Yes/No): Yes, see §262-A:69-1. required as 265:93
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Yes
  - Vehicle Passengers: No
  - Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

- Minimum Age (Years) Sale/Purchase: 20; (Year Eff: 1979) Special Note: Minimum age will automatically increase to 21 when Maine and Massachusetts raise their minimum ages to 21. §§175:6 & 175:8-a
- Minimum Age (Years) Possession: 20; There are employment exemptions; see §175-8 for details. §§175:6 & 175:8-a
- Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:

- State Has a Dram Shop Law (Yes/No): No
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: No (But see, Burns v. Bradley, 419 A.2d 1069 (1980) which held that New Hampshire permits a plaintiff to maintain a common-law action against a liquor licensee for injuries received as a result of being served additional liquor while in an intoxicated state, 419 A.2d 1069, 1071.) and Ramsey v. Anctil, 211 A.2d 900 (1965).
- Other: N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

- Type of Criminal Action: Misd §175.6
- Term of Imprisonment: Not more than 1 yr
- Fine ($ Range): Not more than $1,000

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes
Length of Term of License Withdrawal:	Susp, time period is not specified in the statute

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Misd, 175:6
Term of Imprisonment:	Not more than 1 yr
Fine ($ Range):	Not more than $1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes
Length of Term License Withdrawal:	Susp; time period is not specified in the statute

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Possible - driver and passengers; §177:4 (The law states that "...liquor sold in a state store shall not be consumed in a public place." Note: The state is the only seller of sealed packaged alcoholic beverages; however, this would, it appears, not apply to packages purchased outside of the state.)

STATE: NEW JERSEY
General Comments: See New Jersey Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% 39:4-50(a)
Presumption (BAC Level): N/A
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
Arrest Required (Yes/No): Yes 39:4-50.2
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: N/A
Urine: N/A
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): N/A
Administrative Licensing Action (Susp/Rev): N/A
Other: N/A

Refusal to Take Implied Consent Chemical Test
Criminal Sanction (Fine/Jail): Fine: $250-500 §39:4-50.4a
Administrative Licensing Action (Susp/Rev): Rev for 6 mos (Mandatory); Rev period is two (2) yrs (mandatory) if the driver has had a prior refusal; §§39:4-50.2 and 39:4-50.4a
Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-Not more than 30 dys; 2nd off (w/n 10 yrs)-48 cons hrs-90 dys; 3rd and subsequent offs (w/n 10 yrs)-Not less than 180 dys; 39:4-50
Mandatory Minimum Term:	1st off-(See section on rehabilitation);2nd off (w/n 10 yrs)-48 cons hrs (see section on rehabilitation); 3rd and subsequent offs (w/n 10 yrs)-90 dys[3] See section on rehabilitation
Fine:	
Amount ($ Range):	1st off-$250-400[2]; 2nd off (w/n 10 yrs) -$500-1,000[2]; 3rd and subsequent offs (w/n 10 yrs)-$1,000[2]; 39:4-50
Mandatory Min. Fine ($):	None
Other Penalties:	
Community Service:	2nd off-30 dys[1]; 3rd and subsequent off (w/n 10 yrs)-Not more than 90 dys as an alternative to imprisonment; i.e. not more than 90 dys of the 180 dy sentence may be served performing community service.
Restitution (eg Victim's Fund)	N/A
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	None
UVC Type of Provisions:	None
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Rev (probably) The statute uses the terminology " forfeit his right to operate a motor veh."; 39:4-50

---

[1] May be mandatory and in addition to the minimum term of imprisonment.

[2] In addition, defendants are charged a $100 surcharge which goes into a drunk driving enforcement fund; ch. 4 laws of N.J. 1984

[3] Statute not specific; suspended sentence/probation may still be possible under various provisions of the criminal justice code.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.): 1st off-6 mos-1 yr; 2nd off-2 yrs; 3rd and subsequent offs-10 yrs

Mandatory Minimum Term of Withdrawal: 1st off-6 mos; 2nd off-2 yrs; 3rd and subsequent offs-10 yrs

Note: A person convicted under DWI must satisfy the requirements of a program of alcohol education and rehabilitation approved by the Director of the Division of Motor Vehicles. Failure to satisfy such requirements shall result in a driver license rev or susp and continuation of rev or susp until such requirements are satisfied unless stayed by Court Order in accordance with Rule 7:8-2 of the N.J. Court Rules, 1969, or R.S. 3(:5-22.)

Other:

Rehabilitation:

Alcohol Education: Yes

Alcohol Treatment: 1st Off-Yes[1]; 2nd Off-Yes[2]; 3rd and subsequent offs-Yes[3] §39:4-50

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): See note above

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions Not Included Elsewhere: N/A

---

[1] There appears to be a mandatory treatment of not less than 48 hrs which is to be spent in an intoxicated driver resource center.

[2] The imprisonment term may be served in an intoxicated driver resource center.

[3] The imprisonment term may be served in an inpatient rehabilitation facility but not an intoxicated driver resource center.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of off:	Yes Crime of the fourth degree. Death must have resulted from the reckless operation of the veh. "Death by auto" 2C:11-5
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	3 to 5 yrs 2C:43-6(a)(c)
Mandatory Minimum Term:	120 dys of imprisonment is mandatory if defendant was under the influence of alcohol, drugs, etc. at the time of the incident causing death
Fine ($ Range):	Not more than $7,500 2C:43-3(b)
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	N/A
Length of Term of Licensing Withdrawal:	N/A
Mandatory Action--Minimum Length of License Withdrawal:	N/A
Other:	Restitution; 2C:43-3
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Not more than 90 dys 39:3-40
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	$500
Mandatory Minimum Fine:	N/A
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp; 39:3-40
Length of Term of License Withdrawal Action:	An additional period of not less than 1 yr nor more than 2 yrs; 39:3-40
Mandatory Term of License Withdrawal Action:	1 yr

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:

State Has Such Law (Yes/No): No
Grounds for Being Declared an Habitual Offender: N/A
Term of License Rev While Under Habitual Offender Status: N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:
Imprisonment (Term): N/A
Mandatory Minimum Term of Imprisonment: N/A
Fine ($ Range): N/A
Mandatory Minimum Fine ($): N/A
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes 26:2B-24
BAC Chemical Test Is Given to the the Following Persons:
Driver: Yes
Vehicle Passengers: Yes
Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 33:1-77 & 9:17B-1 (yr eff: 1983)
Minimum Age (Years) Possession: N/A
Minimum Age (Years) Consumption: 21 9: 17B-1

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: Rappaport v. Nichols, 156 A.2d 1 (1959) Social Host Liability, see Kelly v. Gwinnell, et al., 476 A.2d 1219(1984)
Other: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: No specific State statute on this subject. Local law may make such action an off.

Term of Imprisonment: N/A

Fine ($ Range): N/A

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): N/A

Length of Term of License Withdrawal: N/A

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: "Petty off"; (Note: Petty offs are not to be considered crimes.) 2:1-4; 2C:43-8; and 33:1-77

Term of Imprisonment: Not more than 6 mos

Fine ($ Range): Not more than $1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes - Susp or Rev (Note: A compromise sum of money may be paid in lieu of susp.)

Length of Term License Withdrawal: 1st off - 2 yrs 33:1-31

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): No

Anti-Consumption Law (Yes/No): Yes - Drivers and passengers; prohibits the consumption of alcoholic beverages by either a driver or passenger while the veh is being operated; there are exceptions for certain vehs for hire, Ch. 307, 1983 laws.

STATE:	NEW MEXICO
General Comments:	See New Mexico statutes 1978 Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §66-8 -102C
Presumption (BAC Level):	0.10% 66-8-110B(3)
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §66-8-107
Other Information:	Special Note: A driver may be required to submit to a chemical test based on a search warrant issued by a court upon probable cause that the driver has killed or greatly injured another person while operating a motor veh under the influence of alcohol; §66-8-111A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	No
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No (Special Note: The police officer must charge a driver with committing a DWI off if the driver's BAC level is 0.10 or more; see §66-8-110(C)
Anti-Plea Bargaining Statute (Yes/No):	Yes §§66-8-102.1 if a guilty plea is entered it must be to one of subsections of the DWI statute if BAC=0.15%
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes Note: The trial Judge must inquire into the DWI defendant's past driving record prior to sentencing; see §66-8-110E

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): No

Administrative Licensing Action (Susp/Rev): 1 yr rev mandatory; §66-8-111B

Other: No

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): 1st off-30-90 dys; 2nd and subsequent offs-90 dys - 1 yr 66-8-102; Great bodily injury where driver was intoxicated, 3rd degree felony - 3 yrs; §§66-8-101 & 31-18-15 (Could be 4 yrs if §31-18-15.1 is applied)

Mandatory Minimum Term: 1st off-No; 2nd and subsequent offs-48 cons hrs[1] 66-8-102 and 66-8-102; Great bodily injury where driver was intoxicated, 3rd degree felony 1 yr (See §31-18-15.1)

Fine:

Amount ($ Range): 1st off-$300-500; 2nd and subsequent offs-Not more than $1,000 66-8-102; Great bodily injury where driver was intoxicated, 3rd degree felony-Not more than $5,000

Mandatory Min. Fine ($): 1st off-No; 2nd and subsequent offs-No

Other Penalties:

Community Service: N/A

Restitution (eg Victim's Fund): Yes, if bodily harm is involved

Other: N/A

---

[1] This mandatory sanction applies only if the second or subsequent off occurred within five (5) yrs of a first or prior offense.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: 1. For persons 18 yrs old and above who have a BAC level of 0.10% or more; 1st Admin per se off - 90 dys mandatory license rev (§66-8- 111c(1)); 2nd and subsequent admin. per se offs where a person has also been convicted of a second or subsequent DWI off - 1 yr mandatory license rev (66- 5-29C); 2. For persons under 18 yrs of age who have a BAC level of 0.05 or more: 1st Admin. Per Se off - 6 mos mandatory license rev §§66-8-111c(2); 2nd Admin Per Se offs - 1 yr mandatory license rev §§66-8-111(B)

UVC Type of Provisions: No

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): 1st off-Rev; 2nd off-Rev §§66-5-29 & 66-5-32(B); 3rd off-Rev §66-5-5(D)

Term of License Withdrawal (Days, Months, Years, etc.): 1st off-1 yr; 2nd off-1 yr; 3rd off-5 yrs

Mandatory Minimum Term of Withdrawal: 1st off-(See Special Note); 2nd off-1 yr; 3rd off-5 yrs

Special Note: If a person has been convicted of a 1st DWI off but not subject to the mandatory license provisions of the admin per se law, they may obtain a restricted license. Such a license, however, is not available where there has been a consent decree based on a filing of any DWI charge. §66-5-35A.

Other:

Rehabilitation:

Alcohol Education: 1) Yes §66-5-29, §43-2-1 et seq. After presentence investigation, a trial court, in its discretion, may order a first offender to attend a "driving-while-intoxicated school," also called the driver rehabilitation program, approved by both the Court and the Division of Motor Vehicles. 2) 1st offender may be allowed to attend driver rehabilitation program and if successfully completed Court may dismiss DWI charge and it is not a conviction, but does not constitute a first off.

Alcohol Treatment: N/A

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): N/A

Sanctions Following a Conviction for a DWI Offense: (continued)

Vehicle Impoundment/Confiscation:

- Authorized by Specific Statutory Authority: No
- Terms Upon Which Vehicle Will Be Released: N/A
- Other: N/A
- Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

- State Has Such Law/Type of off: Yes-Misd or Death where the driver was intoxicated-3rd degree felony §66-8-101
- Sanctions:
  - Criminal Sanction:
    - Imprisonment (Term): Misd-Not more than 90 dys; 3rd degree felony-3 yrs (Could be 4 yrs if §31-18-15.1 is applid) §§31-18-15 & 66-8-7B
    - Mandatory Minimum Term: 3rd degree felony-1 yr (See §31-18-15.1)
    - Fine ($ Range): Misd-Not more than $100; 3rd degree felony-Not more than $5,000
    - Mandatory Minimum Fine: None
  - Administrative Licensing Action:
    - Licensing Authorized and Type of Action: Misd-Susp; 3rd degree felony-Susp §§66-5-29 & 66-5-20
    - Length of Term of Licensing Withdrawal: Misd-1 yr; 3rd degree felony-1 yr
    - Mandatory Action--Minimum Length of License Withdrawal: 3rd degree felony-1 yr
    - Other: Misd - Restitution; 3rd degree felony-Restitution (Victim restitution is either via the offender or via a State reparations fund; see §§31-17-1 & 31-22-1 et seq.

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

- Sanction:
  - Criminal:
    - Imprisonment (Term): 2 dys-6 mos §66-5-39
    - Mandatory Minimum Term of Imprisonment: No
    - Fine ($ Range): $0-500 §66-5-39
    - Mandatory Minimum Fine: No

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Rev §66-5-39
Length of Term of License Withdrawal Action:	1 yr
Mandatory Term of License Withdrawal Action:	1 yr (except for minors)

Habitual Offender Laws:	
State Has Such Law (Yes/No):	No, but §66-5-5 does, prevents anyone who has been convicted of DWI 3 or more times since 1955 from having or applying for a drivers license for 5 yrs.
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes, §66-8-108
Vehicle Passengers:	Yes
Pedestrian:	Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1934) §§60-3A-3(0), 60-7B-1 & 60-7B-1.1

Other State Laws Related To Alcohol Use And Driving: (continued)

Minimum Age (Years) Possession: 21 (Exemption when the minor is accompanied by a parent or guardian.) §§60-3A-(30), 60-78-1 & 60-78-1.1

Minimum Age (Years) Consumption: 21 (Apply to allowing a minor accompanied by either a parent or legal guardian, to consume alcoholic beverages in a licensed establishment.) §§60-3A-3(O), 60-7B-1 & 60-7B-1.1

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes[1] 41-11-1[1]

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: Yes, Lopez v. Maze, 651 P.2d 1269 (N.M. 1982) and MRC Prop v. Gries 652 P.2d 732 (N.M., 1982)

Other: No

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Misd

Term of Imprisonment: 0-7 mos

Fine ($ Range): $0-300 (If corporation, $0-1,000)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes

Length of Term of License Withdrawal: 2 yrs

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Misd

Term of Imprisonment: 0-6 mos

Fine ($ Range): $100 (Mandatory minimum)

---

[1] Law limits liability for social hosts to cases involving serving alcoholic beverages in reckless disregard of the rights of others and increases the burden of evidence needed to hold liquor license establishments liable for serving alcoholic beverages to intoxicated persons. This law apparently limits the holding in the Lopez v. Maze case.

STATE - New Mexico

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
- License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes
- Length of Term License Withdrawal: 2 yrs

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
- Open Container Law (Yes/No): No
- Anti-Consumption Law (Yes/No): No

STATE: NEW YORK

General Comments: See McKinney's Consolidated laws of New York Citations are to the veh and traffic law unless otherwise stated.

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes, 0.10% 1192.2

Presumption (BAC Level): N/A

Other: A BAC of 0.05-0.07% is relevant evidence of being impaired; and a BAC of 0.08-0.10% is *prima facie* evidence of impairment; 1195(c) and (b)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes (Note: Applies to drivers involved in accidents and traffic law violations; 1193(a)

Implied Consent Law:

- Arrest Required (Yes/No): Yes 1194
- Other Information: Special Note: Under §1194-a, a driver may be compelled to submit to a chemical test of their blood for alcoholic content if they have been involved in an accident in which there has been a fatality related to a DWI off

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 1194(1)

Urine: Yes 1194(1)

Other: Yes, Saliva 1194(1)

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No

Anti-Plea Bargaining Statute (Yes/No): Yes (Note: Plea bargaining allowed to one of the two alcohol offs) §1196.2

Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes (Required for felony convictions) (C.P.L. §390.20.1 et seq.)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

- Criminal Sanctions (Fine/Jail): Infraction - fine up to $50 and imprisonment up to 15 dys; §1800(b)
- Administrative Licensing Action (Susp/Rev): N/A
- Other: N/A

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	Rev for at least 6 mos; Rev for at least 1 yr for a 2nd or subsequent refusal (w/n 5 yrs) or a 1st refusal where there has been a previous DWI off conviction (w/n 5 yrs)[1]; Special Note: These revs are mandatory 510(2)(d) and 510(6)
Other:	Civil penalty of $100; Civil Penalty of $250 for a 2nd or subsequent refusal (w/n 5 yrs) or for a 1st refusal where there has been a previous DWI off conviction (w/n 5 yrs); 1194(3)(b)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	"Impaired" status offs See 510 and 1192 (1 and 5) under; 1st off-Not more than 15 dys; 2nd off (w/n 5 yrs)-Not more than 30 dys; 3rd and any subsequent off (w/n 10 yrs)-Not more than 90 dys; Per Se and Intoxicated status offs, 1st off (Misd)-Not more than 1 yr; 2nd and any subsequent offs (w/n 10 yrs) Cl E Felony-Not more than 4 yrs [2]
Mandatory Minimum Term:	None
Fine:	
Amount ($ Range):	"Impaired" status offs, 1st off-$250; 2nd off (w/n 5 yrs)-$350-500; 3rd and any subsequent offs (w/n 10 yrs)-$500-1,500; Per se and intoxicated status off, 1st off (Misd)-$350-500; 2nd and subsequent offs (w/n 10 yrs) Cl E Felony-$500 to 5,000
Mandatory Min. Fine ($):	"Impaired" status offs, 1st off-$250; 2nd off (w/n 5 yrs)-$350; 3rd and any subsequent offs (w/n 10 yrs)-$500; Per se and intoxicated off, 1st off (Misd)-$350; 2nd and any subsequent offs (w/n 10 yrs) Cl E felony-$500

---

[1] For persons under 21 yrs old, their license is revoked for six (b) mos or until they reach 21 whichever is the greater period of time; see S510(b)(d).

[2] See N.Y. Penal Law SS66.10, 70.00 and 80.00.

BEST COPY AVAILABLE

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other Penalties:	
Community Service:	N/A
Restitution (eg Victim's Fund)	N/A
Other:	Special Note: NY has an off known as "Vehicle Assault;" a person is guilty of such an off if they injure another in a criminally negligent manner while in violation of the DWI law: such an off is a Cl E felony; see N.Y. penal law §120.03.
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Temporary susp and mandated for repeat offenders w/n 5 yrs; see §510(2)(b)(vi)
UVC Type of Provisions:	N/A
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	"Impaired" status offs, 1st off-Susp; 2nd off (w/n 5 yrs of any alcohol driving off)-Rev; Per se and intoxicated offs, 1st off-Rev §510; 2nd and any subsequent offs (w/n 10 yrs)-Rev §510; see the Special Note below.
Term of License Withdrawal (Days, Months, Years, etc.):	"Impaired" status offs, 1st off-90 dys; 2nd off (w/n 5 yrs of any alcohol driving off)-6 mos; Per se and intoxicated offs, 1st off-At least 6 mos; 2nd and any subsequent offs (w/n 10 yrs)-At least 1 yr
Mandatory Minimum Term of Withdrawal:	All offs - See "Alcohol Education" under the rehabilitation section below
Other:	
Rehabilitation:	
Alcohol Education:	Yes for all offs, 523(a)
Alcohol Treatment:	Yes for all offs, 521

Special Note: A person under 21 yrs old, who is convicted of any alcohol driving off, shall have their license suspended/revoked for six (6) mos or until they reach 21 which ever is the greater period of time (see S510(b)(d)). A conditional license is not available for a subsequent alcohol offense (see SS521(1)(f)).

Sanctions Following a Conviction for a DWI Offense:
(continued)

Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	Yes (with Court's permission)[1]
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	Special Note: A Certificate of Registration may be suspended or revoked for DWI convictions; see §510.
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes, Cl D felony - death of another based on criminally negligent action while in violation of the DWI laws; see N.Y. Penal Law §215.12
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Not more than 7 yrs; Penal Law §70.00(2)(d)
Mandatory Minimum Term:	See Penal Code §70.00(3) on minimum sentences
Fine ($ Range):	Not more than $5,000; Penal Law §80.00(1)(a)
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev; Veh. & Traffic Law §510(2)(i)
Length of Term of Licensing Withdrawal:	Not specified--but see Veh. & Traffic Law §510(b)
Mandatory Action--Minimum Length of License Withdrawal:	4 yrs Special Note: Under §530(2), a restricted use license may be issued after 4 yrs.
Other:	N/A

---

[1] Under §521(1)(f) a person may be issued a conditional license while participating in a rehabilitation program; however, under 521(1)(c) a person is not permitted to take part in such a program if they have participated in one (1) within a five (5) yr period; in addition, successful completion of the program shall satisfy any sentence of imprisonment and allow an offender to apply for reinstatement of his/her driver's license. §§521(c) and (d)

Other Criminal Actions Related to Alcohol Use and Driving:

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Misd, 7 to 180 dys; 511.2
Mandatory Minimum Term of Imprisonment:	7 dys; 511(b)
Fine ($ Range):	$200-500; 511(b)
Mandatory Minimum Fine:	$200; 511(b)
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp or Rev
Length of Term of License Withdrawal Action:	Not specified in the statute
Mandatory Term of License Withdrawal Action:	N/A

Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes, (NY County Law 674.3, NY Vehicle and Traffic Law 1194(a))

Other State Laws Related To Alcohol Use And Driving:

Vehicle Passengers:	Yes, (NY County Law 674.3 (must be 16 or older) NY Traffic Law 1194(a))
Pedestrian:	Yes, (if 16 yrs or older NY County Law 674.3 NY Vehicle and Traffic Law 1194(a))
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 (Year Eff: 1982); Alcoholic Beverages Control Law §§65 & 65b
Minimum Age (Years) Possession:	N/A
Minimum Age (Years) Consumption:	N/A
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes, N.Y. Gen. Oblig. Law §§11-100 & 11-101
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Berkeley v. Park, 282 N.Y.S. 2d 290 (1965)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Misd; §130 of the Alcoholic Beverage Code (Vol. 3)
Term of Imprisonment:	30 dys-1 yr
Fine ($ Range):	$200-1,200
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, suspended, cancelled, or revoked
Length of Term of License Withdrawal:	Not specified in the statute
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Misd, Alcoholic Beverage Code (Vol. 3) §§17(3) and 65 Penal Code 260.20
Term of Imprisonment:	30 dys-1 yr
Fine ($ Range):	$200-1,200

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes, suspended, cancelled, or revoked
Length of Term License Withdrawal:	Not specified in the statute
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes - Driver and passengers; §1227

STATE:	NORTH CAROLINA
General Comments:	See Gen. Stat. of North Carolina

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10%[1] §20--138.1(a)(2)
Presumption (BAC Level):	N/A
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes; 20-16.3
Implied Consent Law:	
Arrest Required (Yes/No):	Yes (Implied); 20-16.2(a)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	N/A
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No, the law requires the prosecutor to explain a reduction or dismissal of a DWI charge; 20-138.4
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes A trial Judge may request a PSI in the case of subsequent a DWI conviction to determine whether the offender would benefit from any habitual alcohol use treatment program; even without a PSI, the trial Court may order suitable treatment for the person as a condition for probation. 20-179.1

---

[1] Special Note: It is illegal for a provisional licensee, a person between the ages of 16 and 18 to operate a motor veh with any alcohol in their body; see S20-138-3.

STATE - North Carolina

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	N/A

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	Rev of driving privileges for 12 mos (10 dy immediate rev) (Mandatory) §§20-16.2(c) & 20-16.5[3]
Other:	N/A Special Note: A limited driving privilege license may be issued after 6 mos of the rev period have passed provided the driver has not had either a previous chemical test refusal or a DWI conviction within the past seven (7) yrs or the charge did not involve death or critical injury to another person. §20-16.2(e)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.):	Level 1 Punishment - 14 dys-24 mos; Level 2 Punishment -7 dys-12 mos; Level 3 Punishment -72 hrs-6 mos [1]; Level 4 Punishment - 48 hrs-120 dys [1]; Level 5 Punishment - 24 hrs to 60 dys [1]
Mandatory Minimum Term:	Level 1 Punishment - 14 dys; Level 2 Punishment - 7 dys

---

[1] The term of imprisonment may be suspended on the condition that the defendant either (1) serve the minimum term of imprisonment as a special condition of probation, or (2) perform the indicated community service, or (3) have their license withdrawn for the period of time shown under Post-DWI Conviction Licensing Action or (4) any combination of the above.

[2] For persons 16-18, provisional licensees, a rev of 45 dys or until the person reaches 18 whichever is the longer period (mandatory); this rev is in addition to and runs concurrently with any other licensing action authorized by law for an implied consent law violation; see S20-13-2.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Fine:	
Amount ($ Range):	Level 1 Punishment -Not more than $2,000; Level 2 Punishment -Not more than $1,000; Level 3 Punishment -Not more than $500; Level 4 Punishment -Not more than $250; Level 5 Punishment -Not more than $100
Mandatory Min. Fine ($):	None
Other Penalties:	
Community Service:	See Footnote 1; Level 3 Punishment -72 hrs; Level 4 Punishment -48 hrs; Level 5 Punishment -24 hrs §20-179
Restitution (eg Victim's Fund)	N/A
Other:	N/A Special Note: The level of punishment to be given a DWI defendant is determined by weighing the aggravating and mitigating factors as specified in §20-179; however, (1) the Court must impose level 2 punishment if there have been two or more previous DWI convictions w/n a 7 yr period; (2) the Court must impose level 2 punishment if there has been an injury related to a DWI off; and (3) the Court must impose level 1 punishment if there have been two or more DWI convictions w/n a 7 yr period and one of the DWI convictions was injury related.
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes, 0.10% BAC-Rev for 10 dys (No limited license following a rev under this section; see §20-16.5(1)) Note: If the driver is late is surrendering or does not surrender their license to the court when ordered to do so, the rev period is 30 dys.
UVC Type of Provisions:	No
Other:	Special Note: Under §20-179.3, a limited driving privilege may be granted for essential purposes as specified in the section (e.g., employment) provided a driver has not had either a previous conviction w/n 7 yrs or a previous DWI injury related conviction; the privilege is not effective until after the Court ordered license withdrawal period, if any, has been completed as a part of probation requirements.

---

[1] Not specified but apparently could be imposed as a condition of probation.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other: A driver's veh may be subject to forfeiture if the driver is convicted of driving while his/or her license is revoked where the basis of the rev was a DWI conviction. §20-28.2

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
- State Has Such Law/Type of Offense: Yes, Death by Vehicle (Cl 1 felony if death is DWI related) Misd (If death is not DWI related) 20-141.4
- Sanctions:
  - Criminal Sanction:
    - Imprisonment (Term): Cl 1 felony-Not more than 5 yrs (§14-1.1); Misd-Not more than 2 yrs
    - Mandatory Minimum Term: None
    - Fine ($ Range): Cl 1 felony-Fines authorized but not specified in the statue; see §14-1.1; Misd-Not more than $500
    - Mandatory Minimum Fine: None
  - Administrative Licensing Action:
    - Licensing Authorized and Type of Action: Rev
    - Length of Term of Licensing Withdrawal: 1 yr unless the trial judge issues a limited driving privilege to the person convicted con- taining a condition that the defendant success- fully completes a course of instruction at an Alcohol Drug. Ed. Traffic School. If the defendant complies with these provisions, the Division must restore his/her license within 6 mos. 20-17(1) and 29-19(c)
    - Mandatory Action--Minimum Length of License Withdrawal: N/A
    - Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
- Sanction:
  - Criminal:
    - Imprisonment (Term): 1st off-Not to exceed 2 yrs; 2nd off-Not to exceed 2 yrs; 3rd off-Not to exceed 2 yrs 20-28(a); If a person's license has been permanently revoked and they thereafter drive they commit a misd-30 dys to 2 yrs

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Minimum Term of Imprisonment:	If a person's license has been permanently revoked and they thereafter drive they commit a misd - 30 dys
Fine ($ Range):	1st off-Not less than $200; 2nd off-Not less than $200; 3rd off-Not less than $200, 20-28(a); If a person's license has been permanently revoked and they thereafter drive they commit a misd-Not more than $1,000
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	1st off-Susp or Rev; 2nd off-Susp or Rev; 3rd off-Rev
Length of Term of License Withdrawal Action:	1st off-1 yr (additional to original term); 2nd off-2 yrs (additional to original term); 3rd off-Permanently
Mandatory Term of License Withdrawal Action:	1st off-90 dys; 2nd off-12 mos; 3rd off-3 yrs; (The licensing agency may issue a new license with or without conditions after these terms of license withdrawal.) Special Note: If a person is convicted of a DWI off and they were at the time of such off driving while their license was revoked for a previous DWI off conviction (w/n 7 yrs), the Court must impose Level 1 punishment as set out under Other Penalties. See §20-179(c)
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No (Note: The law for habitual offenders (Law 20-220 to 20-231) repealed by Session Laws 1977, c. 243 S. 1
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal off if Convicted on Charges of Driving While on Habitual Offender Status	N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:
Imprisonment (Term): N/A
Mandatory Minimum Term of Imprisonment: N/A
Fine ($ Range): N/A
Mandatory Minimum Fine ($): N/A
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
State Has Such a Law (Yes/No): Yes, 20-166-1(f)
BAC Chemical Test Is Given to the the Following Persons:
Driver: Yes
Vehicle Passengers: Yes
Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
Minimum Age (Years) Sale/Purchase: 19 for beer and unfortified wine; 21 for all other alcoholic beverages; (Year Eff: 1983) §§18B-300, 18B-301 & 18B-302
Minimum Age (Years) Possession: 19 for beer and unfortified wine; 21 for all other alcoholic beverages
Minimum Age (Years) Consumption: 19 for beer and unfortified wine; 21 for all other alcoholic beverages

Dram Shop Laws and Related Legal Actions:
State Has a Dram Shop Law (Yes/No): Yes, §§18B-120 et seq[1]
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: Yes, Hutchens v. Hankins, 303 SE.2d 584 (N.C. App. 1983) and Chastain v. Litton Systems, Inc., 694 F.3d 957 (CA4, 1982).
Other: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
- Type of Criminal Action: None
- Term of Imprisonment: N/A
- Fine ($ Range): 1st off--up to $500[2] (Administrative); 2nd off--up to 750[2]; 3rd off--up to $1,000[2]; 18B-104 §18B-305

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
- License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, (left to Board's discretion whether to suspended or revoked.) §18B-104 18B-305
- Length of Term of License Withdrawal: For a specified time up to 3 yrs if suspended and permanently if revoked §18B-104 §18B-305

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
- Type of Criminal Action: None
- Term of Imprisonment: N/A
- Fine ($ Range): 1st off-up to $500[2]; 2nd off-up to $750[2]; 3rd off-up to $1,000[2]); §18B-104 and §18B-302

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
- License to Serve Alcohlic Beverages Withdrawn (Yes/No): Yes (Left to Board's discrection whether suspended or revoked.) §18b-104 §18B-302
- Length of Term License Withdrawal: For a specific time up to 3 yrs if suspended and permanently if revoked. §18B-104 and §18B-302

---

[1] These statutory provisons create a Dram Shop type of liability to situations involving minors (those persons under 19 yrs old) who cause damages while DWI and places limitations on damage amounts which can be awarded in such actions under such statuary provisions. However, the law specifically does not limit or prohibit other types of Dram Shop civil actions which are based either on other statutes or on case law.

[2] Administrative penalty

BEST COP

237

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes[1] §18B-401(a)
Anti-Consumption Law (Yes/No):	Yes[1] driver only §18B-401(a)

---

[1] The law states that "it shall be unlawful for a person to transport fortified wine or spiritous liquor in the passenger area of a motor veh in other than the manufacturer's unopened original container. It shall be unlawful for a person who is driving a motor veh on a highway or public veh area to consume in the passenger area of that veh any malt beverage or unfortified wine."

STATE: NORTH DAKOTA
General Comments: See: North Dakota Century Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% §39-08-01(1), (2) & §39-20-07(3)
Presumption (BAC Level): No
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes §39-20-14
Implied Consent Law:
    Arrest Required (Yes/No): Yes §39-20-01
    Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: Yes
Other: Saliva

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes §39-08-01

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
    Criminal Sanctions (Fine/Jail): No
    Administrative Licensing Action (Susp/Rev): 1 yr Rev of license §§39-20-04 & 39-20-14
    Other: N/A

Refusal to Take Implied Consent Chemical Test
    Criminal Sanction (Fine/Jail): No
    Administrative Licensing Action (Susp/Rev): 1 yr Rev of license (Mandatory) §39-20-04
    Other: N/A

STATE - North Dakota

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off (Cl B Misd)-Not more than 30 dys; 2nd off (w/n 5 yrs) (Cl B Misd)-Not more than 30 dys; 3rd (w/n 5 yrs) (Cl A Misd)-Not more than 1 yr; 4th and subsequent offs (w/n 7 yrs) (Cl A Misd)-Not more than 1 yr
Mandatory Minimum Term:	1st off-No; 2nd off (w/n 5 yrs)-4 dys of which 48 hrs must be served cons; 3rd off (w/n 5 yrs)-60 dys of which 48 hrs must served cons; 4th and subsequent off (w/n 7 yrs)-180 dys of which 48 hrs must be served cons
Fine:	
Amount ($ Range):	1st off-Not more than $500; 2nd off (w/n 5 yrs)-Not more than $500; 3rd offs (w/n 5 yrs)-Not more than $1,000; 4th and subsequent off-Not more than $1,000
Mandatory Min. Fine ($):	1st off-$250; 2nd off (w/n 5 yrs)-$500; 3rd and subsequent offs (w/n 5 yrs) $1,000
Other Penalties:	
Community Service:	1st off-No; 2nd and subsequent off (w/n 5 yrs)-10 dys as an alternative to imprisonment
Restitution (eg Victim's Fund)	Yes for all offs §§5-01-06 & 12.1-32-02
Other:	Special Note: North Dakota has two alcohol-driving offs, §§39-08-01(1) & 39-08-01(2). The provisions are identical except that under 39-08-01(1) "A person may not drive any veh" whereas, under 39-08-01(2), "A person may not be in actual physical control of any veh." The penalties for both offs are the same. However, the imposition of mandatory sanctions is not required following a conviction under 39-08-01(2) whereas it is required following a conviction under 39-08-01, see 39-08-01(5)(e)(1).
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes-0.10% BAC and the person was arrested for violating §§39-08-01 & 39-20-03.1 et seq.; 1st off-90 dy susp; 2nd off (w/n 5 yrs)-1 yr susp; (Special Note: These license susps appear to be mandatory) 33.34 and 35 of Senate Bill 2373 as enacted in 1983.
UVC Type of Provisions:	Yes
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): 1st off-Susp; 2nd off (w/n 5 yrs)-Susp; 3rd off (w/n 5 yrs)-Susp; Note: 4th off (w/n 7 yrs)-Susp, treated as a 1st off §§39-06-35 & 39-06.1-10

Term of License Withdrawal (Days, Months, Years, etc.): 1st off-91 dys; 2nd off (w/n 5 yrs)-364 dys; 3rd off (w/5 yrs)-364 dys

Mandatory Minimum Term of Withdrawal: 1st off-30 dys (A temporary license may be issued after the 30 dy mandatory period; see §39-06.1-11.); 2nd off (w/5 yrs)- 364 dys; 3rd off (w/n 5 yrs)-364 dys

Other:

Rehabilitation:

Alcohol Education: Yes

Alcohol Treatment: Yes For 1st, 2nd and 3rd alcohol-driving off convictions, the sentence must include referral to a treatment program; see §39-08-01(5) Note: Under Section 16 of Senate Bill 2373 as enacted in 1983 a person's license may be suspended for failure to participate in and complete a Court ordered alcohol treatment program; see the cited section for details on susp periods.

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: N/A

Other: License plates may be impounded following a conviction for an alcohol driving off; see §39-08-01(4)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Miscellaneous Sanctions Not Included Elsewhere:	Note: Special mandatory sanctions apply if either death or injury is caused by a DWI. If a person is convicted of DWI and either manslaughter or negligent homicide, there is a mandatory penalty of 1 yr. imprisonment. If a person is convicted of both DWI and reckless driving where there is a personal injury caused by the convicted driver, there is a mandatory penalty of 90 dys imprisonment. See §22 of SB. 2373 as enacted in 1983.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of off:	No, see Note above
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	N/A
Mandatory Minimum Term:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Special Note: Even though this State does not have a veh homicide statute, it, nevertheless, provides for mandatory license rev from 30 dys to 1 yr for a conviction of manslaughter resulting from the operation of a motor veh.
Length of Term of Licensing Withdrawal:	N/A
Mandatory Action--Minimum Length of License Withdrawal:	N/A
Other:	N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Cl B Misd Not more than 30 dys; §39-06-42; Note: Under §39-06-42(3), license plates may also be impounded for the duration of the driver's license susp/rev.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Minimum Term of Imprisonment:	15 dys See §§39-06-42(2) & 37-08-01
Fine ($ Range):	Not more than $500
Mandatory Minimum Fine:	N/A

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev):	Additional mandatory susp for a like period, a person driving while his license is revoked would incur a mandatory 1-yr extension of the period of Rev. Note: Special licensing actions apply for a violation of the conditions of a restricted license; see 39-06-1-11, 39-06-43 and 39-08-01. §39-06-43
Length of Term of License Withdrawal Action:	N/A
Mandatory Term of License Withdrawal Action:	N/A

Habitual Offender Laws:

State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

BEST COPY AVAILABLE

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
State Has Such a Law (Yes/No): Yes
BAC Chemical Test Is Given to the the Following Persons:
Driver: Yes
Vehicle Passengers: Yes
Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
Minimum Age (Years) Sale/Purchase: 21 (yr eff: 1936) §§5-01-08 & 5-02-06
Minimum Age (Years) Possession: 21
Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:
State Has a Dram Shop Law (Yes/No): Yes §5-01-06
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: No
Other: N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
Type of Criminal Action: Cl A Misd 5-01-09
Term of Imprisonment: Not more than 1 yr §12.1-32-01
Fine ($ Range): Not more than $1,000 §12.1-32-01

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes, rev or susp §§5-02-10 and 25-02-11
Length of Term of License Withdrawal: Time period not specified in the statute §5-02-11

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Cl A Misd 5-01-09
Term of Imprisonment: Not more than 1 yr §12.1-32-01
Fine ($ Range): Not more than $1,000 §12.1-32-01

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No): Yes, rev or susp §§5-02-10 and 25-02-11

Length of Term License Withdrawal: Time period not specified in the statute §5-02-11

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): Yes §39-08-18

Anti-Consumption Law (Yes/No): Yes Driver and passengers §37-08-18 (The law states that "no person shall drink or consume alcoholic beverages ... in or on any motor veh when such veh is upon a public highway or in an area used principally for parking.")

BEST COPY AVAILABLE

STATE: OHIO
General Comments: See Ohio Revised Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% §4511.19(A)(2) & (3)
Presumption (BAC Level): No
Other: None

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
Arrest Required (Yes/No): Yes §4511.191(A)
Other Information: None

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes §4511.191(A)
Urine: Yes §4511.191(A)
Other: Probably no ("Other bodily substance applicable to 4511.19 but not mentioned in §4511.191 which is the Implied Consent Statute) §4511.191(A), and §4511.19

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): N/A
Administrative Licensing Action (Susp/Rev): N/A
Other: None

Refusal to Take Implied Consent Chemical Test
Criminal Sanction (Fine/Jail): 1st Refusal--Not more than $100; 2nd refusal (w/n 1 yr)--30 dys and not more than $250; 3rd and subsequent refusals (w/1 yr. of 1st)--not more than 60 dys and not more than $500; §§4511.99(E) and 2929.21

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Administrative Licensing Action (Susp/Rev): For any 1st Refusal Susp-1 yr §4511.191(D) (Occupational driving priviledges may be granted; see §4511.191(G)(5))

Other: None

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): Misd of the first degree, 1st Off - Not more than 6 mos; 2nd Off (w/n 5 yrs) - Not more than 6 mos; Subsequent offs (w/n 5 yrs) - 30-dys-1 yr §§2929.21 & 4511.99(A)

Mandatory Minimum Term: 1st Off - 3 dys; 2nd off (w/n 5 yrs) - 10 dys; Subsequent offs (w/n 5 yrs) - 30 dys; These dys are to be served consecutively

Fine:

Amount ($ Range): 1st Off -$150-1,000; 2nd off (w/5 yrs) - $150-1,000; Subsequent offs (w/5 yrs)- $150-1,000

Mandatory Min. Fine ($): None

Other Penalties:

Community Service: None

Restitution (ie Victim's Fund) None

Other: None

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes - However, at the initial court appearance following a DWI arrest, the court shall immediately suspend a driver's license if the driver, at the time of arrest, either refused to submit to a chemical test or, having refused to submit to such a test, was found to have a BAC level of 0.10 or more and one of the following: 1) The driver has had a previous DWI conviction; 2) The driver's license is either revoked or suspended; 3) The driver has caused either death or serious harm to another person; 4) The driver fails to appear for the hearing; or 5) The court determines that the driver's continued operation of a motor veh will be a threat to the public safety. This susp continues until the DWI charge is adjudicated; this usually takes 90 dys after the DWI arrest. It appears that occupational driving privileges may be granted during this susp period. Note: A law enforcement officer may sieze a driver's license after a DWI arrest if the driver refuses to submit to a chemical test or if the driver's BAC level is 0.10 or more. See §§4511.191(E), (G), (J), and (K)

UVC Type of Provisions: No

Other: None

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): 1st Off-Susp; 2nd off (w/n 5 yrs) Susp; Subsequent offs (w/n 5 yrs) - Susp; §4507.16(B)

Term of License Withdrawal (Days, Months, Years, etc.): 1st Off -60 dys-3 yrs; 2nd off (w/n 5 yrs)-120 dys-5 yrs; Occupational driving priveledges may be granted for 1st and 2nd offs; see §4507.16(D); Subsequent off (w/n 5 yrs)-180 dys-10 yrs

Mandatory Minimum Term of Withdrawal: Subsequent Off (w/n 5 yrs)-180 dys §4507.16(F); After the mandatory minimum term, occupational driving privileges may be granted §4507.16(D)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:
Rehabilitation:
Alcohol Education: **No**
Alcohol Treatment: **Yes**
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe): May be imposed if defendant is an alcoholic or suffering from acute alcohol intoxication. This treatment may be imposed in place of a jail term. Confinement shall be for at least 3 dys and no more than length of maximum prison sentence. §2935.33

Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: **No**
Terms Upon Which Vehicle Will Be Released: **N/A**
Other: (Special Note: Vehicle Registration certificate and license plates shall be impounded for driving while license is susp/rev; see §4507.38(c)) 8 4507.164
Miscellaneous Sanctions Not Included Elsewhere: Special Note: A license may be suspended via a point system under §4507.40. In brief, under this section a DWI conviction results in as assessment of 6 points; if a driver accumulates 12 or more points from traffic violations within a 2 yr period, their license may be suspended for 6 mos.

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Off: **Yes** §§2903.06 and 2903.07
Sanctions:
Criminal Sanction:
Imprisonment (Term): 1.) 1st off-6 mos; 2nd off +-6 mos to 5 yrs 2.) If aggravated (reckless), 1st off-6 mos to 5 yrs; 2nd off +-1 to 10 yrs; §§2929.11 and 2828.21
Mandatory Minimum Term: **None**
Fine ($ Range): 1.) 1st off-$0-1,000; 2nd off +-$0 to 2,500; 2.) If aggravated, 1st off - $0 to 2,500; 2nd off + - $0 to 5,000; §§2929.11 and 2929.21
Mandatory Minimum Fine: **None**

__Other Criminal Actions Related to Alcohol Use and Driving__: (continued)

Administrative Licensing Action:

- Licensing Authorized and Type of Action: Susp or rev, plus 6 points under the point system §§4507.16 and 4507.40
- Length of Term of Licensing Withdrawal: 30 dys to 3 yrs
- Mandatory Action--Minimum Length of License Withdrawal: 30 dys
- Other: None

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

- Sanction:
  - Criminal:
    - Imprisonment (Term): Not more than 6 mos (Misd of the first degree) §§4507.38, 4507.39, 4507.99
    - Mandatory Minimum Term of Imprisonment: No
    - Fine ($ Range): Not more than $1,100 §4507.99
    - Mandatory Minimum Fine: No
  - Administrative Licensing Actions:
    - Type of Licensing Action (Susp/Rev): Susp points gained (certificate of registration and license plates in defendant's name shall be impounded for duration of license susp time.) §4507.38(c) §4507.40
    - Length of Term of License Withdrawal Action: Discretionary susp for not more than 1 yr or; mandatory 6 points on 12-point susp system §§4507.99 and 4507.40
    - Mandatory Term of License Withdrawal Action: No

Habitual Offender Laws:

- State Has Such Law (Yes/No): No
- Grounds for Being Declared an Habitual Offender: N/A
- Term of License Rev While Under Habitual Offender Status: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	N/A
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes §38-709 §55-10-406
BAC Chemical Test Is Given to the Following Persons:	
Driver:	Yes §4511-19-1(B)
Vehicle Passengers:	No
Pedestrian:	No
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 for beer; 21 for all other alcoholic beverages; §4301.22(A) (Year Eff: 1982)
Minimum Age (Years) Possession:	N/A
Minimum Age (Years) Consumption:	19 for beer; 21 for all other alcoholic beverages; §4301.631, 632 & 69
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes §4399.01
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes, Mason v. Roberts, 244 N.E. 2d 844 (1973)
Other:	No

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: **Misd** §§4301.22(B), 4399.09, 4399.99

Term of Imprisonment: **None**

Fine ($ Range): 1st off - **$100 to 500**; 2nd off + - **$200 to 500** and, order the place where liquor sold to be abated as a nuisance or order defendent to pay $1,000 bond with sureties not to violate law again

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): **Yes** §§4301.25 and 4301.27

Length of Term of License Withdrawal: **Indeterminate**

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: **Misd**

Term of Imprisonment: **None**

Fine ($ Range): 1st off-**$100 to 500**; 2nd off + - **$200 to 500** and order the place where liquor sold to be abated as a nuisance or order the defendant to pay $1,000 bond with sureties not to violate law again §§4301.22(B), 4399.09, 4399.99

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No): **Yes** §§4301.25 and 4301.27

Length of Term License Withdrawal: **Indeterminate**

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): **No**

Anti-Consumption Law (Yes/No): **Yes** Drivers and passengers §4301.64 (The law states that "No person shall consume any beer or intoxicating liquor in a motor veh")

STATE: OKLAHOMA
General Comments: See Oklahoma Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% Title 47 §11-902(A)(1)
Presumption (BAC Level): >0.05% and <0.10% is evidence of Driving While Impaired Title 47 §756(b)
Other: 0.10% BAC level is also prima facie evidence that a person was under the influence of alcohol Title 47 §756(c)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
  Arrest Required (Yes/No): Yes 47 §751
  Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 47 §751
Urine: N/A
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes, (2nd and subsequent offs) 22 982

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): N/A
  Administrative Licensing Action (Susp/Rev): N/A
  Other: N/A

Refusal to Take Implied Consent Chemical Test
  Criminal Sanction (Fine/Jail): None
  Administrative Licensing Action (Susp/Rev): Rev 6 mos (Note: Hardship driving privileges are available) 47 §§753, 754 & 755
  Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	Driving While Under the Influence/Illegal Per Se 1st Off (Misd)-10 dys-1 yr; 2nd & subsequent Offs (felony)-1 yr-5 yrs 47 §11-902(a); Personal Injury Accident w/BAC of 0.10% 1st Off (Misd)-90 dys-1 yr; 2nd Off (felony)-1-5 yrs
Mandatory Minimum Term:	For all offs - None (Note: A Court has the power the suspend a sentence and/or place a defendant in probation; see 22 §991a)
Fine:	
Amount ($ Range):	Driving While Impaired, 1st off-$100-300; 2nd off +-$100-300 47 §761; Driving While Under the Influence/Illegal Per Se, 1st Off (Misd)- Not more than $1,000; 2nd & subsequent offs (felony)-Not more than $2,500 47 §11-902(c); Personal injury Accident w/BAC of 0.10, 1st off (Misd)-Not more than $2,000; 2nd off (Felony)-Not more than $5,000; 47 §11-904
Mandatory Min. Fine ($):	None
Other Penalties:	
Community Service:	For all offs - Yes; see 22 §199a
Restitution (eg Victim's Fund)	For all offs - Yes; see 22 §199a
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes - 0.10% BAC level; Rev for 90 dys (The rev may be modified by a District Court in cases of unusual hardship related to employment) 47 §§754 & 755
UVC Type of Provisions:	No
Other:	N/A

---

[1] The revs for a violation of 47 §11-902 would, it appears, apply also to violations 47 §11-904 (See 47 §6-205 and 47 §756); however, there are no specific licensing actions in 47 §11-904.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): For driving while impaired (47 §761)- 1st Off- No licensing action is taken for a 1st off; 2nd and subsequent offs-Susp 47 §761; For Driving While Under the Influence/Illegal Per Se (47 §11-902)[1]; 1st Off-Rev; 1st Off (where there has a previous driving while impaired off w/n 3 yrs)-Rev [1]

Term of License Withdrawal (Days, Months, Years, etc.): For driving while impaired, 2nd and subsequent offs-6 mos; For driving While Under the influence/illegal Per Se, 1st Off-6 mos; 1st Off (where there has been a previous driving while impaired off w/3 yrs)-1 yr; 2nd Off-Rev 2 yrs; 3rd off w/n 3 yrs - Rev 3 yrs; 47 §§6-205 and 6-208

datory Minimum Term of ithdrawal: For driving while impaired 2nd and subsequent offs-6 mos; For Driving While Under the Influence/Illegal Per Se, 1st Off-6 mos; 1st Off (where there has been a previous driving while impaired Off w/n 3 yrs.)-1 yr; 2nd Off-2 yrs; 3rd Off-3 yrs

Other:

Rehabilitation:

Alcohol Education: Yes

Alcohol Treatment: Yes Nonprofit educational institutions of higher learning, governmental or nonprofit organizations offer courses for drinking driver retaining; a court may (with defendant's consent), upon DWI defendant's plea of guilty or nolo contendere, but before judgement is entered, commit defendant to undertake these courses. Further judicial proceedings are deferred only upon conditions that defendant attend and successfully complete courses at their own expense. A defendant could be assigned to an alcohol treatment program while they are serving their imprisonment sanctions; see 47 §11-902(c), (d), and (e). See also 47 §§ 11-902.1, 11-902.2 and 11-902.3

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): No

Sanctions Following a Conviction for a DWI Offense:
(continued)

Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: No
Terms Upon Which Vehicle Will Be Released: N/A
Other: N/A
Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Offense: Yes 47 §11-903
Sanctions:
Criminal Sanction:
Imprisonment (Term): 1 yr
Mandatory Minimum Term: No
Fine ($ Range): $100-1,000
Mandatory Minimum Fine: No

Special Note: The Oklahoma Courts have decided that if a veh homicide is proximately caused by an alcohol driving law offender, for a first off the charge may be Manslaughter 1 and for a second off the charge may be Murder II. See respectively para. 1 of sec. 711 of Title 31 (Mc Connell v. State, 485 P.2d.764 (1971) and White v. State 483 P.2d.751 (1971) and para 2 sec. 701.8 of Title 21 (Isom v. State, 646 P.2d, 1288 (1982)).

Administrative Licensing Action:
Licensing Authorized and Type of Action: Rev
Length of Term of Licensing Withdrawal: 6 mos but 1 yr if within prior 3 yrs there has been a motor veh violation conviction; 2 yrs if revoked twice before for Driving while under the influence, negligent homicide, etc.
Mandatory Action--Minimum Length of License Withdrawal: 6 Mos
Other: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term): Where the original licensing action was a 1st or 2nd driving off of either under the influence Illegal Per Se or Admin. Pe Se - 10 dys to 12 mos; Where the original licensing action was a 3rd off of either driving under the influence, Illegal Per Se or Admin Per Se action (w/n 3 yrs) - 60 dys to 1 yr; 47 §6-303(c)

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): Where the original licensing action was a 1st or 2nd off of either driving under the influence, Illegal Per Se or Admin Per Se - $250-600; Where the original licensing action was a 3rd off of either driving under the influence, Illegal Per Se or Admin Per Se (w/n 3 yrs) - $500-2,000

Mandatory Minimum Fine: N/A

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp or rev; 47 §6-303(d)

Length of Term of License Withdrawal Action: Period of susp/rev extended not more than 12 mos; 47 §6-303(d)

Mandatory Term of License Withdrawal Action: Period of susp/rev extended not more than 12 mos; 47 §6-303(d)

Habitual Offender Laws:

State Has Such Law (Yes/No): No

Grounds for Being Declared an Habitual Offender: N/A

Term of License Rev While Under Habitual Offender Status: N/A

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): N/A

Mandatory Minimum Fine ($): N/A

Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes 47 §751

BAC Chemical Test Is Given to the the Following Persons:

Driver: Yes 47 §751

Vehicle Passengers: Yes 47 §10-113

Pedestrian: Yes 47 §10-113

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 37 §241 & 37 §537 (a)(1) (Year Eff: 1983)

Minimum Age (Years) Possession: 21 (Aplies to possession of alcoholic beverages of not more than 3.2% alcohol in a public places 21 §1215, 37 §537(a)(1), & (5) 37 §538(e)

Minimum Age (Years) Consumption: Special Note: Under 37 §537(a)(8) No one may consume alcoholic beverages containing more than 3.2% alcohol in public. Under 37 §246 alcoholic beverages containing less than 3.2% alcohol may not be consumed in public by a person under 21 yrs old unless the person is being directly supervised by either a parent or guardian.

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation N/A

Other: No

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: Felony 37 §538

Term of Imprisonment: 1 yr (Maximum) 37 §538

Fine ($ Range): $0-1,000 37 §538

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes 37 §528

Length of Term of License Withdrawal: At the discretion of the Alcoholic Beverage Control Board

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Felony (for 3.2% and above); None (for 1/2 of [illegible] to 3.2%); 37 §538[1]
Term of Imprisonment:	5 yrs – Maximum 37 §538
Fine ($ Range):	$0 to 5,000 (for the felony off)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes; §§ 242 and 528
Length of Term License Withdrawal:	For the felony offs - in the discretion of the alcoholic beverage control board; for the 1/2 of 1% to 3.2% offs - 12 mos

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes 37 §537(a)(7)
Anti-Consumption Law (Yes/No):	Yes, driver and passengers 37 §537(a)(8) (The law states that "It shall be unlawful to drink intoxicating liquor ... in a public place.")

---

[1] 37 §537(a)(7) 37 §538 37 §528 37 §1220

STATE:	OREGON
General Comments:	See Oregon Revised Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.08% §487.540(1)(a)
Presumption (BAC Level):	No
Other:	Not less than 0.08% constitutes being under the influence of intoxicating liquor, see §487.545(2)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §487.805(1)
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	None
Urine:	None
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No (There is a diversion from DWI prosecution program for 1st offender; see §484.450)
Anti-Plea Bargaining Statute (Yes/No):	Yes §484.385 Special Note: There is a diversion program for DWI offenders who have not been convicted of a DWI off w/n a 10-yr period; see §§484.445 and 484.450(4)(a)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §487.547

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Administrative Licensing Action (Susp/Rev): 1. Susp for 1 yr if there have been no previous susps for either a test refusal or a DWI off (90 dys are mandatory)[1]
2. Susp for 3 yrs if there has been either a previous test refusal or a previous DWI off based license susp w/n 5 yrs (1 yr is mandatory)[1]; §§482.545(1) and (2) and 482.547

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): A DWI off is a Cl A Misd - Not more than 1 yr §§487.540(3) & 161.615(1)

Mandatory Minimum Term: 48 hrs §487.547(2)

Fine:

Amount ($ Range): Not more than $2,500 §161.635(1)(a)

Mandatory Min. Fine ($): No

Other Penalties:

Community Service: 80-250 hrs (As an alternative to imprisonment); 137.129(4)

Restitution (ie Victim's Fund) No

Other: A $175 fee is charged in addition to any fine imposed; the fee is used to pay for intoxicated driver programs and for police training; see §§487.547(1)(a) & 487.549(1)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: Yes - BAC Level of 0.08% 1. A 90 dy susp if there has been no previous susp for either a chemical test refusal, or as Admi. Per Se off, or a DWI off[2]
2. A 1 yr susp if there has been a previous susp for either a chemical test refusal, an Admin. Per Se off or a DWI off (90 dys are mandatory[1])

---

[1] A restricted hardship occupation license may be issued after these mandatory periods; see §482.552

[2] A 30 dy susp is mandatory if the defendant within the previous yr has been convicted of a major trafffic off. See §482.552(8)

261

Sanctions Following a Conviction for a DWI Offense: (continued)

UVC Type of Provisions: Yes

Other: N/A

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): 1st Off-Susp; 2nd and subsequent offs (w/n 5 yrs)-Susp; 3rd and subsequent offs (w/n 5 yrs)-Susp; Special Note: The State issues special licenses to persons 14-17 yrs old for the purpose of attending educational institutions; the State, it appears, issue such licenses notwithstanding a DWI conviction and the mandatory licensing sanctions provided for such an off if veh transportation is needed by the minor to attend such institutions; see §482.160

Term of License Withdrawal (Days, Months, Years, etc.): 1st Off-1 yr; 2nd and subsequent offs (w/n 5 yrs)-3 yrs; 3rd and subsequent offs (w/n 5 yrs)-3 yrs

Mandatory Minimum Term of Withdrawal: 1st Off-see footnote 1; 2nd Off (w/n 5 yrs)-90 dys[2]; 3rd and subsequent offs (w/n 5 yrs)-1 yr[2]

Other:

Rehabilitation:

Alcohol Education: A restricted license can be issued only following an examination of the DWI offender by the mental health division the determine if the offender is a problem drinker; if he or she is determined to be a non-problem drinker; the offender must enroll in an alcohol education program. However, if the offender is determined to be a problem drinker, he or she must enroll in a rehabilitation program; the offender must enroll in these programs before such a license is issued. §482.477

Alcohol Treatment: Yes, see note above

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): Yes

---

[1] A 30 dy susp is mandatory if the defendant within the previous yr has been convicted of a major trafffic off. See §482.552(8)

[2] A restricted hardship occupational license may be issued after these mandatory periods; see §482.552

Sanctions Following a Conviction for a DWI Offense:
(continued)

Vehicle Impoundment/Confiscation:
- Authorized by Specific Statutory Authority: Yes, for 2nd and subsequent DWI offs §484.222
- Terms Upon Which Vehicle Will Be Released: After a period of impoundment of not more than 120 dys and after paying the costs of the veh's removal and storage.
- Other: Special Note: This sanctions also applies where a person has been driving while their driver's license is either suspended or revoked; see §484.222(1)
- Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
- State Has Such Law/Type of Offense: No
- Sanctions:
  - Criminal Sanction:
    - Imprisonment (Term): N/A
    - Mandatory Minimum Term: N/A
    - Fine ($ Range): N/A
    - Mandatory Minimum Fine: N/A
  - Administrative Licensing Action:
    - Licensing Authorized and Type of Action: Rev Even though this State does not have a veh homicide statute, it, nevertheless, provides for mandatory license Rev for manslaughter etc. resulting from the operation of a motor veh. OVC §353(1)(a)
    - Length of Term of Licensing Withdrawal: 5 yrs
    - Mandatory Action--Minimum Length of License Withdrawal: 5 yrs
    - Other: Special Note: OVC §327 on hardship occupational licenses applies only to persons who have had their licenses suspended not revoked; see especially OVC §327(3)(a).

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
- Sanction:
  - Criminal:
    - Imprisonment (Term): Not more than 5 yrs (Cl C felony) OVC §598 §161-605
    - Mandatory Minimum Term of Imprisonment: No
    - Fine ($ Range): Not more than $100,000 §161.625
    - Mandatory Minimum Fine: No

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Rev Special Note: For a violation of OVC §598, a defendant's veh may be impounded for not more than 120 dys under OVC §385
Length of Term of License Withdrawal Action:	N/A
Mandatory Term of License Withdrawal Action:	N/A
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes OVC §§365, 366, 397 & 398
Grounds for Being Declared an Habitual Offender:	(1) Three serious traffic offs (no time limit) or (2) A combination of 20 minor and serious traffic offs w/n a 5-yr period) OVC §365
Term of License Rev While Under Habitual Offender Status:	10 yrs (1 yr probationary and renewable license is available if certain conditions are met) OVC §§326 and 366
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Cl C felony OVC §598(4)(a)
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	5 yrs §161-605
Mandatory Minimum Term of Imprisonment:	No
Fine ($ Range):	$100,000
Mandatory Minimum Fine ($):	No
Licensing Actions (Specify):	None

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes (If over 13 yrs of age and within 5 hrs of accident) §146.113
Vehicle Passengers:	Yes (If over 13 yrs of age and within 5 hrs of accident) §146.113

Other State Laws Related To Alcohol Use And Driving: (continued)

Pedestrian:	**Yes** (If over 13 yrs of age and within 5 hrs of accident) §146.113
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	**21** (Year Eff: 1933) §§471.410 & 471.430
Minimum Age (Years) Possession:	**21** Exception for either the possession or the consumption of an alcoholic beverage in a private residence accompanied by or with the consent of a parent. §§471.410 & 471.430
Minimum Age (Years) Consumption:	See above under "Minimum Age (Years) Possession"
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	**Yes** §30.950
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	**Yes,** Cambell v. Carpenter, 279 Or, 566 P.2d 893 (1977)
Other:	**No**
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	1.) **Cl A Misd** - applies to the sale of alcoholic beverages by non-licensed persons; see §471.410; 2.) **Misd** - applies to individuals and liquor (includes beer and wine) "by the drink" licensed establishments; §§472.310 & 472.990
Term of Imprisonment:	1.) Cl A Misd - Not more than **1 yr** Misd 1st off- Not more than **6 mos**; 2nd or subsequent offs - Not more than **1 yr**
Fine ($ Range):	1.) Cl A Misd - Not more than **$2,500**; Misd 1st off - Not more than **$500**; 2nd or subsequent offs - Not more than **$1,000**
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	**Yes**, see note below
Length of Term of License Withdrawal:	Special Note: Any licensed establishment that either sells liquor by the drink, or packaged alcoholic beverages, that violates the liquor laws concerning intoxicated persons may have their license revoked/suspended for an inderminate period of the time and/or be fined via administrative action; see §471.385.

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes §487.841
Anti-Consumption Law (Yes/No):	Yes, driver and passengers §487.839 (Excludes passengers riding in a veh used to carry persons for hire)

STATE: PENNSYLVANIA
General Comments: See Pennsylvania Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): 0.10% 75 §3731(a)(4)
Presumption (BAC Level): 0.10% 75 §1547(d)(3)
Other: No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes 75 §154(K)
Implied Consent Law:
Arrest Required (Yes/No): No
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 75 §1547
Urine: Yes 75 §1547
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No[1]
Anti-Plea Bargaining Statute (Yes/No): No, but see footnote below
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes 75 §1548

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): No
Administrative Licensing Action (Susp/Rev): No
Other: N/A

Administrative Licensing Actions:
Pre-DWI Conviction Licensing Action:
Administrative Per Se Law: No
UVC Type of Provisions: No
Other: No

---

[1] Accelerated Rehabilitation Dispostition (A.R.D.) may not be allowed if: (1) defendant was convicted or accepted A.R.D., because of DWI charge within last 7 yrs; (2) present off violated habitual offender statute; (3) if any person other than defendant was seriously injured or killed. Also a judge may not lessen the charge at preliminary hearing.

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	Susp (12 mos) 75 §1547(b)(1) (Mandatory)
Other:	No

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	Any DWI off is a 2nd degree misd
Term (Day, Month, Years, Etc.):	All offs - not more than 2 yrs; 18 §1104
Mandatory Minimum Term:	All offs - $300
Fine:	
Amount ($ Range):	Not more than $5,000; 18 §1101
Mandatory Min. Fine ($):	1st off[1] - $300; 2nd off (w/n 7 yrs.)[2] - $300; 3rd off (w/n 7 yrs.)[2] - $300; 4th off (w/n 7 yrs)[2] - $300 75 §3731(e)
Other Penalties:	
Community Service:	1st off[1] - Possible under A.R.D.
Restitution (eg Victim's Fund)	Not required under A.R.D. (Special Note: Restitution is to be paid by the defendant)

---

[1] Accelerated Rehabilitation Disposition (A.R.D.). (Pa. Cr. Pro. Rule 175 et seq.) 1) Acceptance into and satisfactory completion of program may lead to dismissal of DWI charge. 2) Acceptance determined by judge after hearing relevant facts of prosecutor, defendant and any victims. Judge also announces terms of A.R.D. 3) "Conditions of program may be such as may be imposed w/respect to probation after conviction ..., including restitution and costs, and may include other conditions agreed to by parties, except that a fine may not be imposed." 4) Programs duration shall not exceed 2 yrs. 5) If defendant is found by Judge, at a hearing, to have violated A.R.D. terms the program will be terminated and the prosecutor may proceed w/the DWI charge(s). 6) When defendant enters A.R.D. program b/c of a DWI charge the Pa. D.O.T. shall keep a record for 7 yrs.

[2] Acceptance of A.R.D. shall be considerd a 1st conviction for purposes of computing any subsequent violations. A.R.D. applies only to first offs.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	If a person is in A.R.D. court supervision for at least 6 mos if counseling/treatment not necessary and for not less than 12 mos if counseling or treatment is necessary. 75 §3731
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Susp 75 §1532(b)(3)
Term of License Withdrawal (Days, Months, Years, etc.):	12 mos or if accepted into A.R.D. program - 1 mo to 12 mos
Mandatory Minimum Term of Withdrawal:	12 mos or if accepted into A.R.D. program - 1 mo
Other:	
Rehabilitation:	
Alcohol Education:	Yes[1]
Alcohol Treatment:	Yes[1]
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	Yes[1]
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes See the following provisions of Pa. law: 18 §§1101, 18 §§1103, 18 §§1104, 75 sec. 3732, and 75 §§3735

---

[1] 1) Every convicted person must take and pass an approved alcohol highway safety class. 2) A Court may order participation (successful) in an individual or group outpatient intervention program to treat substance abuse. Participation may be ordered for up to 2 yrs. 3) If a convicted person is found to be a "chronic" abuser, who represents a "demonstrated and serious" threat, he may be ordered (committed) into treatment at a D.O.H. approved facility. 75 §1540

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

- Sanctions:
  - Criminal Sanction:
    - Imprisonment (Term): Misd 1st degree (non-alcohol related death) - Not more than 5 yrs; Felony 3rd degree (alcohol related death) - Not more than 7 yrs
    - Mandatory Minimum Term: Misd 1st Degree (non-alcohol related death) - None; Felony 3rd Degree (Alcohol related death) - 3 yrs (75 sec. 3735(b))
    - Fine ($ Range): Misd 1st Degree (Non-alcohol Related Death) - not more than $10,000; Felony 3rd Degree (Alcohol related death) - Not more than $15,000
    - Mandatory Minimum Fine: None
  - Administrative Licensing Action:
    - Licensing Authorized and Type of Action: Misd 1st Degree (Non-Alcohol Related Death) -Rev; Felony 3rd Degree (Alcohol Related Death) - Rev
    - Length of Term of Licensing Withdrawal: Misd 1st Degree (Non-Alcohol Related Death) - 1 yr; Felony 3rd Degree (Alcohol Related Death) - 1 yr 75 §1532
    - Mandatory Action--Minimum Length of License Withdrawal: Misd 1st Degree (Non-Alcohol Related Death) - 1 yr; Felony 3rd Degree (Alcohol Related Death) - 1 yr
    - Other: N/A
- Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
  - Sanction:
    - Criminal:
      - Imprisonment (Term): 1st off - None; 2nd and subsequent offs - Not more than 1 yr 75 §1543 and 6503[1]
      - Mandatory Minimum Term of Imprisonment: None
      - Fine ($ Range): 1st off - $200; 2nd and subsequent offs - $200 to 1,000
      - Mandatory Minimum Fine: None
    - Administrative Licensing Actions:
      - Type of Licensing Action (Susp/Rev): 1st off - Rev; 2nd off - Rev 75 §1543

---

[1] If a person drives on violation of a susp or rev issued as a condition of A.R.D., the following sanctions apply: imprisonment of not less than 90 dys and a fine of $1,000; see 75 §1543(b). Note: This is a summary off.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Length of Term of License Withdrawal Action:	If based on a susp - 6 mos (additional); If based on a rev - 1 yr (additional) 75 §1543(c)[1]
Mandatory Term of License Withdrawal Action:	Same as above
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes
Grounds for Being Declared an Habitual Offender:	3 convictions of any one or more of the following w/in a 5-yr period: 1) veh homicide when DUI; 2) DWI; 3) other offs listed in 75 §1532; 4) operation following registration's susp; 5) using a veh w/out knowledge or consent of owner; 6) using veh for unlawful sale of alcohol or controlled substance; 7) any felony in which veh was essentially involved. 75 §1542
Term of License Rev While Under Habitual Offender Status:	5 yrs 75 §1542
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Summary off 75 §1543
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	1 yr 75 §6503
Mandatory Minimum Term of Imprisonment:	No
Fine ($ Range):	$200 to 1,000 75 §6503
Mandatory Minimum Fine ($):	No
Licensing Actions (Specify):	2 yrs additional Rev period 75 §6503

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes (if driver 15 yrs old and died within 4 hrs of the accident) 75 §3749

---

[1] Applies also to A.R.D. susp/rev violations.

Other State Laws Related To Alcohol Use And Driving: (continued)

Vehicle Passengers:	Yes, but only if the driver of the veh cannot be determined 75 §3749
Pedestrian:	Yes (if over 15 yrs old and died within 4 hrs of the accident) 75 §3749
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 (Yr eff. 1935) 1 §1991, 18 §6308 and 47 §4-493(1)
Minimum Age (Years) Possession:	21
Minimum Age (Years) Consumption:	21
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	Yes §4-497
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	Yes, Jardine v. Upper Darby Lodge No. 1973 Inc., 413 Pa. 626, 198 A. 2d 550 (1964)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	1st off - Misd 47 §§4-493(1) and 4-494(a)
Term of Imprisonment:	1st off - 1 to 3 mos (for failure to pay fine); 2nd and subsequent offs - 3 mos to 1 yr
Fine ($ Range):	1st off - $100 to 500; 2nd and subsequent offs - $300 to 500 (Note: There is also a possible civil fine of from $50 to 1,000, see 47 §4-471)
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes or liquor control board may impose a fine of $50 to 1,000. (1 yr for location unless ownership changes hands, including immediate family members.)
Length of Term of License Withdrawal:	3 yrs if revoked (1 yr for location unless ownership changes hands, including immediate family members.) If suspended: indeterminate 47 §4-471

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	1st off - Misd 47 §§4-493(1) and 4-494(a)
Term of Imprisonment:	1st off - 1 to 3 mos (for failure to pay fine); 2nd and subsequent offs - 3 mos to 1 yr
Fine ($ Range):	1st off - $100 to 500; 2nd and subsequent offs - $300 to 4,500 and maybe $50 to 1,000 (Note: There is also a possible civil fine of from $50 to 1,000; see 47 §4-471)
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes 47 §4-471
Length of Term License Withdrawal:	3 yrs if revoked (1 yr for structure unless ownership changes hands, including immediate family); if Susp: indeterminate or Liquor Control Board may impose a fine; see fine range on previous page of $50 to 1,000.
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes - driver only 75 §3715

STATE: PUERTO RICO
General Comments: See Laws of Puerto Rico Annotated

Basis for a DWI Charge:

- Illegal Per Se Law (BAC Level): No
- Presumption (BAC Level): 0.10% 9 §1041(b)(2)
- Other: No

Chemical Breath Tests for BAC Level:

- Preliminary Breath Test Law: Yes 9 §1043
- Implied Consent Law:
  - Arrest Required (Yes/No): Yes 9 §1043
  - Other Information: No

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

- Blood: Yes 9 §1043
- Urine: No 9 §1043
- Other: "Any other substance of his body" 9 §1043

Adjudication of DWI Charges:

- Mandatory Adjudication Law (Yes/No): No
- Anti-Plea Bargaining Statute (Yes/No): No
- Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes 9 §1042

Sanction for Refusal to Submit to a BAC Chemical Test:

- Refusal to Take a Preliminary Breath Test:
  - Criminal Sanctions (Fine/Jail): No
  - Administrative Licensing Action (Susp/Rev): No
  - Other: No

- Refusal to Take Implied Consent Chemical Test
  - Criminal Sanction (Fine/Jail): No
  - Administrative Licensing Action (Susp/Rev): Susp - Not more than 2 yrs 9 §1044
  - Other: No

STATE - Puerto Rico

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off - 15 dys; 2nd off - 30 dys; 3rd off - 60 dys; 4th or subsequent off - 60 dys to 6 mos; If injury related: 1st off - 30 dys; 2nd off - 60 dys; 3rd and subsequent off - 30 dys to 6 mos; 9 §1042
Mandatory Minimum Term:	All offs - No
Fine:	
Amount ($ Range):	1st off - $100-300; 2nd off - $200-400; 3rd off - $300-500; 4th and subsequent offs - $300-500; If injury caused: 1st off - $200-500; 2nd off - $300-500; 3rd and subsequent off - $300-500; 9 §1042
Mandatory Min. Fine ($):	All offs - No
Other Penalties:	
Community Service:	No
Restitution (eg Victim's Fund)	No
Other:	May be ordered to take and pass a driver improvement course
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	No
UVC Type of Provisions:	No
Other:	No
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Susp (Hardship provision; see 9 §§1042(h) and 1042(i)
Term of License Withdrawal (Days, Months, Years, etc.):	Until defendant participates in and passes a driver improvement course or until the agency in charge of rehabilitation certifies that the defendant is qualified to drive (probably not more than 1 yr). 9 §1042(h)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Minimum Term of Withdrawal: None

Other:

Rehabilitation:

Alcohol Education: A court may suspend the effects of a 1st conviction if a presenting report indicates rehabiliation ("any kind of treatment, orientation, guidance or advice...") would be effective and defendant voluntarily agrees to undergo rehabilitation. For all other off, if a court determines the defendant would benefit from rehabilitation, court shall suspend the jail penalty if the defendant agrees to undergo rehabilitation. Hospitalization, for up to 3 cons mos, may be ordered if the Court deems such treatment is necessary. 9 §1042

Alcohol Treatment: N/A

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): N/A

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes 33 §4005

Sanctions:

Criminal Sanction:

Imprisonment (Term): 3 yrs

Mandatory Minimum Term: None

Fine ($ Range): $3,000

Mandatory Minimum Fine: None

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:
  Licensing Authorized and Type of Action: Rev
  Length of Term of Licensing Withdrawal: 1 yr
  Mandatory Action--Minimum Length of License Withdrawal: 1 yr
  Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
  Sanction:
    Criminal:
      Imprisonment (Term): 1st off - 1 to 3 mos; 2nd off - 3 to 6 mos
      Mandatory Minimum Term of Imprisonment: No
      Fine ($ Range): 1st off - $200; 2nd off - $500
      Mandatory Minimum Fine: No
    Administrative Licensing Actions:
      Type of Licensing Action (Susp/Rev): 1st off - probably Rev 9 §691
      Length of Term of License Withdrawal Action: Indeterminate 9 §691
      Mandatory Term of License Withdrawal Action: No

Habitual Offender Laws:
  State Has Such Law (Yes/No): No
  Grounds for Being Declared an Habitual Offender: N/A
  Term of License Rev While Under Habitual Offender Status: N/A
  Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A
  Sanctions Following a Conviction of Driving While on Habitual Offender Status:
    Imprisonment (Term): N/A
    Mandatory Minimum Term of Imprisonment: N/A
    Fine ($ Range): N/A
    Mandatory Minimum Fine ($): N/A
    Licensing Actions (Specify): N/A

STATE - Puerto Rico

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
State Has Such a Law (Yes/No): Yes 9 §1043
BAC Chemical Test Is Given to the the Following Persons:
Driver: Yes
Vehicle Passengers: Yes
Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
Minimum Age (Years) Sale/Purchase: 18 13 §6083 (Year Eff: 1969)
Minimum Age (Years) Possession: N/A
Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:
State Has a Dram Shop Law (Yes/No): No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): No
Other: No

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
Type of Criminal Action: N/A
Term of Imprisonment: N/A
Fine ($ Range): N/A

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): N/A
Length of Term of License Withdrawal: N/A

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Misd 13 §6107
Term of Imprisonment: 30 dys to 6 mos
Fine ($ Range): $100 to 500

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes 13 §6093
Length of Term License Withdrawal:	Indeterminate

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

STATE: RHODE ISLAND
General Comments: See General Laws of Rhode Island

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes, 0.10% 31-27-2(b)
Presumption (BAC Level): N/A
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes 31-27-2.3
Implied Consent Law:
Arrest Required (Yes/No): Yes (Implied) 31-27-2.1
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes (exception on religious grounds.) §31-27-2 and §31-27-2.1
Urine: Yes §31-27.2 and §31-27.2.1
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): N/A
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes, where a 1 yr or more sentence may be imposed

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): None
Administrative Licensing Action (Susp/Rev): None
Other: Civil violation, fine-$15.00; see §31-41-4

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	1st refusal-$300-500 and 10-60 hrs of public service; 2nd refusal (w/n a 5 yr period)-$400-500; 3rd and subsequent refusal (w/n a 5 yr period)- $500 (Special Note: In addition to the above fines, an assessment fee of $150 is charged to the defendant.) The imposition of these fines, assessments and/or public community service is mandatory.) §31-27-2.1
Administrative Licensing Action (Susp/Rev):	1st Refusal- 3-6 mos susp; 2nd refusal (w/n 5 yr period)- 1-2 yrs Susp; 3rd and subsequent refusal (w/n 5 yr period)- 2-3 yrs Susp; (These susps are mandatory) §31-27-2.1
Other:	1st Refusal-Attendance at a DWI class or alcohol/drug treatment program; 2nd refusal (w/n 5 yr period)-Attendance at an alcohol/drug treatment program; 3rd and subsequent refusal (w/n 5 yr period)-Attendance at an alcohol/drug treatment program (Attendance at these classes or programs is required.)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-Not more than 1 yr; 2nd off (w/n 5 yrs)-10 dys-1 yr; 3rd and subsequent offs (w/n 5 yrs)-6 mos-1 yr; §31-27-2(d) (Note: A DWI off is a misd)
Mandatory Minimum Term:	1st off-No; 2nd off (w/n 5 yrs)-48 cons hrs; 3rd and subsequent offs (w/n 5 yrs)-48 cons hrs
Fine:	
Amount ($ Range):	1st off-$200; 2nd off (w/n 5 yrs)-$500; 3rd and subsequent offs (w/n 5 yrs)- $500
Mandatory Min. Fine ($):	1st off-$200; 2nd off (w/n 5 yrs)-$500; 3rd and subsequent offs (w/n 5 yrs)-$500; (In addition th the above fines, an assessment fee of $150 is charged to the defendant.) §31-27-2(d)
Other Penalties:	
Community Service:	1st off - 10-60 hrs
Restitution (eg Victim's Fund)	None
Other:	N/A

Sanctions Following a Conviction for a DWI Offense: (continued)

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:
- Administrative Per Se Law: No
- UVC Type of Provisions: Yes
- Other: N/A

Post DWI Conviction Licensing Action:
- Type of Licensing Action (Susp/Rev): Susp all offs
- Term of License Withdrawal (Days, Months, Years, etc.): 1st off - 3-6 mos; 2nd off - 1-2 yrs; 3rd off - 2-3 yrs; §31-27-2(d)
- Mandatory Minimum Term of Withdrawal: 1st off - 3 mos; 2nd off - 1 yr; 3rd off - 2 yrs; §31-27-2(d)

Other:
- Rehabilitation:
  - Alcohol Education: 1st off - Alcohol (DWI)/drug education course and/or treatment program (Required)
  - Alcohol Treatment: 2nd off-Yes (Required); 3rd off-Yes (Required)
  - Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): N/A
- Vehicle Impoundment/Confiscation:
  - Authorized by Specific Statutory Authority: No
  - Terms Upon Which Vehicle Will Be Released: N/A
  - Other: N/A
  - Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
- State Has Such Law/Type of off: Yes
- Sanctions:
  - Criminal Sanction:
    - Imprisonment (Term): 1) Death related DWI offs, 1st off - 6 mos-10 yrs; 2nd and subsequent (w/n 5 yrs) - 5-20 yrs; 2) Non-DWI related driving causing death-Not more than 10 yrs 31-27-1

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Minimum Term:	None
Fine ($ Range):	Death related DWI offs, 1st off - $500-5,000; 2nd and subsequent (w/n 5 yrs) - $800-5,000
Mandatory Minimum Fine:	None
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Death related DWI offs, 1st off - Rev; 2nd and subsequent (w/n 5 yrs) - Rev; Non-DWI related driving causing death - Rev; 31-11-6
Length of Term of Licensing Withdrawal:	Death related DWI offs, 1st off - 3 yrs; 2nd and subsequent offs (w/n 5 yrs) - 5 yrs; Non-DWI related driving causing death - 3 yrs
Mandatory Action--Minimum Length of License Withdrawal:	Death related DWI offs, 1st off - 3 yrs; 2nd and subsequent offs (w/n 5 yrs) - 5 yrs; Non-DWI related driving causing death - 3 yrs
Other:	N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):	1st off (Misd)-10 dys; 2nd off (w/n 5 yrs) (Misd)-6 mos-1 yr; 3rd and subsequent offs (w/n 5 yrs) (felony)-1 yr §31-11-18.1; (Rev, etc. due to DWI conviction, refusal to submit to chemical test, reckless driving, motor veh manslaughter, or 3 moving violations in one yr.)
Mandatory Minimum Term of Imprisonment:	1st off-10 dys; 2nd off (w/n 5 yrs)-6 mos; 3rd and subsequent offs (w/n 5 yrs)-1 yr; §31-11-18.1(d)
Fine ($ Range):	1st off - $500; 2nd off (w/n 5 yrs)-$500; 3rd and subsequent offs (w/n 5 yrs) $1,000; §31-11-18.1
Mandatory Minimum Fine:	1st off-$500; 2nd off (w/n 5 yrs)-$500; 3rd and subsequent offs (w/n 5 yrs)- $1,000; §31-11-18.1(d)
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	1st off-Susp; 2nd off (w/n 5 yrs)-Susp; 3rd and subsequent offs (w/n 5 yrs)-Rev; §31-11-18.1

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Length of Term of License Withdrawal Action: 1st off-"Time deemed proper" (additional susp period); 2nd off (w/n 5 yrs)-Dept. of Motor Vehicles' discretion (additional susp period) 1 yr; 3rd and subsequent offs (w/n 5 yrs)-1 yr (additional rev period); §31-11-18.1

Mandatory Term of License Withdrawal Action: 1st off-3 mos; 2nd off (w/n 5 yrs)-6 mos; 3rd and subsequent offs (w/n 5 yrs)-1 yr; §31-11-18.1

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes

Grounds for Being Declared an Habitual Offender: Three or more convictions within 3 yrs for any of the following: 1) Motor veh manslaughter; 2) DWI (alcohol or drugs); 3) Driving while license suspended or revoked; 4) Willfully operating a motor veh without a license; 5) any felony off using a motor veh; 6) failure to stop and report death/injury after accident driver was involved in; 7) failure of driver to stop and report accident where damages = $150 or more. §31-40-1 to 31-4-13

Term of License Rev While Under Habitual Offender Status: 1-5 yrs

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Felony

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): 5 yrs (maximum)

Mandatory Minimum Term of Imprisonment: No, but if an imprisonment sentence is given it may not be suspended or deferred except to save a life

Fine ($ Range): None

Mandatory Minimum Fine ($): None

Licensing Actions (Specify): No apparent specific provision: but see 31-11-18: driving after denial, generally a 1 yr extension of rev

STATE - Rhode Island

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes §23-4-9

BAC Chemical Test Is Given to the the Following Persons:

Driver: Yes

Vehicle Passengers: Yes

Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 21 (Year Eff: 1984)

Minimum Age (Years) Possession: 21, Applies to the possession of alcoholic beverages containing more than 3.2% alcohol §§3-8-5,-6, & -10

Minimum Age (Years) Consumption: 21, Applies to licensed premises

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): Yes; §3-11-1

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation No

Other: No

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: 1st off-Petty Misd; 2nd off-Petty Misd; 3rd and Subsequent offs-Misd; §§ 3-8-1, 3-11-5 & 11-1-2

Term of Imprisonment: 1st off-3 mos; 2nd off-6 mos; 3rd and subsequent offs-Not more than 1 yr

Fine ($ Range): 1st off-Not more than $200; 2nd off-Not more than $300; 3rd and subsequent offs-Not more than $500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes §3-3-21

Length of Term of License Withdrawal: 1 yr §3-5-22

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	1st off-Petty Misd; 2nd off-Misd; 3rd and subsequent offs-Felony; §§3-8-1, 3-8-5 & 11-1-2
Term of Imprisonment:	N/A
Fine ($ Range):	1st off-$250; 2nd off-$500; 3rd and subsequent offs-$750 (If no offs in 3 successive yrs, next off shall be treated as 1st.)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes; §3-5-22
Length of Term License Withdrawal:	1 yr; §3-5-22

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes - Driver §31-22-21

STATE: SOUTH CAROLINA
General Comments: See Code of Laws of South Carolina Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): No
Presumption (BAC Level): 0.10% §56-5-2950(b)(3)
Other: No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
  Arrest Required (Yes/No): Yes
  Other Information: No

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: No
Urine: No
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes §56-5-2990

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): N/A
  Administrative Licensing Action (Susp/Rev): N/A
  Other: N/A

Refusal to Take Implied Consent Chemical Test
  Criminal Sanction (Fine/Jail): No
  Administrative Licensing Action (Susp/Rev): 90-dy susp of license (Mandatory) §56-5-2950(d)
  Other: No

STATE - South Carolina

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-48 hrs-30 dys; 2nd off (w/n 5 yrs)-48 hrs-1 yr; 3rd off (w/n 5 yrs)-60 dys-3 yrs; 4th off (w/n 5 yrs)-90 dys-4 yrs; 5th and subsequent off (w/n 5 yrs)- 1-5 yrs §56-5-2940; DWI where there is great bodily injury-felony, 30 dys-1 yr; §56-5-2940
Mandatory Minimum Term:	1st off-48 hrs; 2nd off-48 hrs; 3rd off-60 dys; 4th off-90 dys; 5th and subsequent offs-1 yr; DWI where there is great bodily injury-30 dys; See footnote below
Fine:	
Amount ($ Range):	1st off-$200; 2nd off-Not less than $1,000; 3rd off-Not less than $2,000; 4th off-Not less than $3,000; DWI where there is great bodily injury-$5,000-10,000
Mandatory Min. Fine ($):	1st off-$200[1]; 2nd off-No; 3rd off-No; 4th off-No; DWI where is great bodily injury-$5,000
Other Penalties:	
Community Service:	1st off-A minimum of 48 hrs in lieu of imprisonment; 2nd off-Not less than 10 dys in lieu of imprisonment
Restitution (eg Victim's Fund)	No
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	No
UVC Type of Provisions:	No
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off[2]-Susp; 2nd off[2] (w/n 5 yrs)-Susp; 3rd off[2] (w/n 5 yrs)-Susp; 4th off[2] (w/n 5 yrs)-Susp; 5th and subsequent offs[2] (w/n 5 yrs)-Rev

---

[1] These minimum sanctions may not be suspended by the Court; the law is silent as to prohibiting the Court from placing a person on probation.

[2] Note: An off is considered either a §56-5-2930, §56-5-2945 or other alcohol use and driving related law violation. §§56-1-1320, 56-5-2990.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.):	1st off-6 mos; 2nd off (w/n 5 yrs)-1 yr; 3rd off (w/n 5 yrs)-2 yrs; 4th off (w/n 5 yrs)-3 yrs; 5th and subsequent offs (w/n 5 yrs)-Permanent
Mandatory Minimum Term of Withdrawal:	1st off - For a 1st DWI off, a provisional license may be issued for the 6-mo susp period provided the defendant participates in an alcohol/drug education/treatment program (see §§56-1-1320 and 56-1-1330); 2nd off (w/n 5 yrs)-1 yr; 3rd off (w/n 5 yrs)-2 yrs; 4th off (w/n 5 yrs)-3 yrs; 5th and subsequent offs (w/n 5 yrs)-5 yrs
Other:	
Rehabilitation:	
Alcohol Education:	(1) For suspended licensed drivers, a successful completion of an Alcohol and Drug Safety Action Program prior to license reinstatement (or a special recommendation by the Medical Advisory Board before the license is restored; and (2) For revoked licensed drivers, the license may be reinstated after 5 yrs provided such drivers have been rehabilitated. See §56-5-2990.
Alcohol Treatment:	Yes see above
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe):	Yes 1st off only
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A (Note: Veh impoundment used only to protect a veh from danger)
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of offense: Yes, Felony §56-5-2945; Based on a DWI off that results in death

Sanctions:

Criminal Sanction:

- Imprisonment (Term): Not more than 1-15 yrs
- Mandatory Minimum Term: No
- Fine ($ Range): $10,000 to $25,000
- Mandatory Minimum Fine: No

Administrative Licensing Action:

- Licensing Authorized and Type of Action: Rev §56-5-2910
- Length of Term of Licensing Withdrawal: 5 yrs §56-5-2910
- Mandatory Action--Minimum Length of License Withdrawal: 5 yrs §56-5-2910
- Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

Sanction:

Criminal:

- Imprisonment (Term): 1st off-30 dys; 2nd off-Not more than 60 dys; 3rd and subsequent off-45 dys to 6 mos; §56-1-460
- Mandatory Minimum Term of Imprisonment: None
- Fine ($ Range): 1st off-$100; 2nd off-$500; §56-1-460
- Mandatory Minimum Fine: None

Administrative Licensing Actions:

- Type of Licensing Action (Susp/Rev): Susp/Rev
- Length of Term of License Withdrawal Action: Susp for a like period of time if the original susp was for a definite period of time. If not, then a susp for 3 mos. If license was revoked, a new license shall not be issued for an additional 1 yr from the date such person would have otherwise been entitled to apply for a new license. §56-1-460.
- Mandatory Term of License Withdrawal Action: None

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes
Grounds for Being Declared an Habitual Offender:	3 or more serious off convictions or 10 or more convictions for violations rated at 4 points or more under the point system within a period of 3 yrs
Term of License Rev While Under Habitual Offender Status:	5 yrs and until the court thereafter restores the driving priviledge
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Misd
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	1 yr to 5 yrs
Mandatory Minimum Term of Imprisonment:	None
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	Yes
Pedestrian:	Yes
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	20 for beer and wine; 21 for liquor (Year Eff: 1985)
Minimum Age (Years) Possession:	20 for beer and wine; 21 for liquor. (Exemption for home use and for religious ceremonies.) §§20-7-320,-317,-370,-380, and §§61-9-40, and 61-13-290
Minimum Age (Years) Consumption:	N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: No

Other: N/A

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action: For liquor (Misd), See §§61-5-30 & 61-5-110; For beer and wine, see §61-9-410

Term of Imprisonment: For liquor-Not more than 30 dys; For beer and wine-Not less than 3 mos §61-13-870

Fine ($ Range): 1.) For liquor-Not more than $100; 2.) If the person is a licensee, 1st off-$200-500; 2nd off (w/n 3 yrs)-$200-500; 3rd off (w/n 3 yrs)-Not less than $500; 3.) For beer and wine-Not less than $100 §61-13-870

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): For Liquor - Yes; For Beer and Wine - Yes

Length of Term of License Withdrawal: For Liquor, 1st off - 30 dys; 2nd off (w/n 3 yrs) - 180 dys; 3rd off (w/n 3 yrs) - Permanently; For beer and wine - License rev or administrative monetary penalty of $25 to 1,000; §61-13-510

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action: Liquor-(Misd); See §61-13-290 and 1970-71 ops Atty Gen. no. 3225 p. 207; beer and wine see §§61-9-410 and 61-90-40

Term of Imprisonment: Liquor-Not more than 5 yrs; Beer and Wine-30-60 dys; §§61-9-401 & 61-90-40

Fine ($ Range): Liquor-Not more than $5,000; Beer and Wine-$100-200

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes

Length of Term License Withdrawal: Liquor, 1st off-1 yr or a $250 administrative monetary penalty (Special Note: Liquor licensees may have to pay from $100 to $1,500 as an alternative to license rev; see §61-13-510), §61-15-500, §61-13-510; Subsequent offs-2 yrs or $500 administrative monetary penalty; Beer and/or wine license withdrawal or administrative monetary penalty or from $25 to $1,000

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): Yes §§61-5-20 & 61-9-87

Anti-Consumption Law (Yes/No): Possible, Driver and passengers §61-13-360; The law states that "Any person who drinks alc.liquors in any public conveyance shall be deemed guilty of a misd." This provision does not apply to railroad dining or club cars or to commercial aircraft.

STATE:	SOUTH DAKOTA
General Comments:	See South Dakota Codified Laws

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% §32-23-1(1)
Presumption (BAC Level):	0.10% §32-23-7 (Note: §32-23-7 applies this presumption to the veh homicide off.)
Other:	No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §32-23-1.2
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §32-23-10
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §32-23-10
Urine:	No §32-23-10
Other:	"Other bodily substances" §32-23-10

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No (Note: A DWI charge may be reduced or dismissed only when written reasons for such have been file with the Court)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes (discretionary)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	No
Administrative Licensing Action (Susp/Rev):	No
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	1 yr (Rev - A restricted hardship license is available.) §32-23-11
Other:	No

STATE - South Dakota

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off Cl I Misd-1 yr (county jail); 2nd off (w/n 5 yrs) Cl I Misd-1 yr (county jail); 3rd and subsequent off Cl 6 Felony (w/n 5 yrs) - 2 yrs state penitentiary §22-6-1, 22-6-2, 32-23-2, 32-23-3, 32-23-4
Mandatory Minimum Term:	None
Fine:	
Amount ($ Range):	1st off-$1,000; 2nd off (w/n 5 yrs)-$1,000; 3rd and subsequent off (w/n 5 yrs)- $2,000
Mandatory Min. Fine ($):	None
Other Penalties:	
Community Service:	N/A
Restitution (eg Victim's Fund)	Yes §§23-A-28-1 et seq.
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	No
UVC Type of Provisions:	No
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st off-Prohibit driving or rev[1]; 2nd off-Rev (no hardship license); 3rd off +-Rev (no hardship license) (Special Note: Susp-If 15 points accumulated in 12 cons mos or 22 points in 24 cons mos; DWI=10 points)
Term of License Withdrawal (Days, Months, Years, etc.):	1st off-30 dys-1 yr; 2nd off -1 yr; 3rd off + - 1+ yr (Under the point system susp 1 yr) §32-23-2, §32-23-3 and §32-23-4
Mandatory Minimum Term of Withdrawal:	1st off - None; 2nd off - 1 yr; 3rd plus + - 1 yr; (Under the point system susp - No) §§32-23-2, 32-23-3, and 32-23-4

---

[1] A restricted hardship license is available. See §§32-23-2, 32-23-3 and 32-23-4

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:
Rehabilitation:
Alcohol Education: N/A
Alcohol Treatment: N/A
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): N/A

Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: No
Terms Upon Which Vehicle Will Be Released: N/A
Other: N/A
Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Offense: Yes, Cl 4 felony where death is caused by veh operation while under the influence of alcohol or drugs. §22-16-41
Sanctions:
Criminal Sanction:
Imprisonment (Term): Not more than 10 yrs
Mandatory Minimum Term: N/A
Fine ($ Range): Not more than $10,000
Mandatory Minimum Fine: N/A
Administrative Licensing Action:
Licensing Authorized and Type of Action: Rev §§32-12-44 and 32-12-52[1]
Length of Term of Licensing Withdrawal: 1 yr
Mandatory Action--Minimum Length of License Withdrawal: 1 yr
Other: N/A

---

[1] §32-12-52 applies the license rev provisions specifically to manslaughter from the operation of a motor veh; it is, therefore, unclear whether these provisions apply to the crime of veh homicide which is a separate off (not manslaughter).

Sanctions Following a Conviction for a DWI Offense:
(continued)

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Cl 1 Misd - Not more than 1 yr §§32-6-2(1) & 32-23-5
Mandatory Minimum Term of Imprisonment:	See footnote 2 below
Fine ($ Range):	Not more than $1,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp-if the conviction was based on driving while suspended; Rev-if the conviction was based on driving while revoked §32-12-66[1]
Length of Term of License Withdrawal Action:	An additional susp period equal to the original period. The original rev period extended for 1 yr. §32-12-66[1])
Mandatory Term of License Withdrawal Action:	(An additional susp period equal to the original period. The original rev period extended for 1 yr. §32-12-66[1]
Habitual Offender Laws:	
State Has Such Law (Yes/No):	No
Grounds for Being Declared an Habitual Offender:	N/A
Term of License Rev While Under Habitual Offender Status:	N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A

---

[1] The license revs/susps of §32-12-66 may apply only to the general off of driving while revoked/suspended license under §32-12-64 and not to §32-23-5 which applies only to driving while revoked/suspended following a DWI off conviction.

[2] 3 dys if convicted after driving has been prohibited for a 2nd DWI off. 10 dys id convicted after 2nd driving off has been prohibited for a 3rd DWI off. See §§32-23-4.

Sanctions Following a Conviction for a DWI Offense: (continued)

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term): N/A

Mandatory Minimum Term of Imprisonment: N/A

Fine ($ Range): N/A

Mandatory Minimum Fine ($): N/A

Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

State Has Such a Law (Yes/No): Yes §39-25-22.1

BAC Chemical Test Is Given to the the Following Persons:

Driver: Yes

Vehicle Passengers: Yes

Pedestrian: Yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: 19 for 3.2% beer; 21 for all other alcoholic beverages. (Yr Eff: 1984) §§35-4-78: 35-9-1,-2,-4

Minimum Age (Years) Possession: 19 for 3.2% beer; 21 for all other alcoholic beverages. There is an exemption for the possession alcoholic beverages greater than 3.2% alcohol by persons under 21 yrs of age for religious ceremonies §§35-4-78: 34-9-1: 35-9-2 & 35-9-4

Minimum Age (Years) Consumption: 19 for 3.2% beer; 21 for all other alcoholic beverages. (Exemption for the consumption of alcoholic beverages greater than 3.2% alcohol by persons under 21 yrs of age for religious ceremonies.) §§35-4-78, 35-9-1, 35-9-2, and 35-9-4

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): No

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation: Yes, Walz v. City of Hudson: 327 N.W. 2d 120 (1982)

Other: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Cl 1 Misd §35-4-78
Term of Imprisonment:	1 yr (County jail)
Fine ($ Range):	$1,000

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes §35-2-10
Length of Term of License Withdrawal:	1 yr §35-2-20

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Cl 2 Misd (generally); Cl 2 Misd (for licensee); §35-4-78 §35-9-1
Term of Imprisonment:	Cl 2 Misd-30 dys (county jail); Cl 1 Misd-1 yr (county jail)
Fine ($ Range):	Cl 2 Misd-$100; Cl 1-Misd $1,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes §35-2-10
Length of Term License Withdrawal:	1 yr §35-2-20

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes §35-1-9.1
Anti-Consumption Law (Yes/No):	No

STATE: TENNESSEE
General Comments: See Tennessee Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): No
Presumption (BAC Level): 0.10% §55-10-408(b)
Other: No

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
  Arrest Required (Yes/No): No (The officer may request a test based on reasonable grounds; see §55-10-406(a).)
  Other Information: No

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes 55-10-405(5)
Urine: Yes 55-10-405(5)
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): Yes §§55-10-403(b)(1) and 55-7-116
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): N/A

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): N/A
  Administrative Licensing Action (Susp/Rev): N/A
  Other: N/A

Refusal to Take Implied Consent Chemical Test
  Criminal Sanction (Fine/Jail): None
  Administrative Licensing Action (Susp/Rev): Susp, 1st Refusal - Not more than 6 mos; 2nd Refusals + - Not more than 1 yr §§55- 7-113(g) & 55-10-406; A restricted license may be issued; see §55-10-406(d)
  Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off-48 hrs-11 mos 29 dys; 2nd off (w/n 10 yrs)-45 dys-11 mos 29 dys; 3rd and subsequent off (w/n 10 yrs) - 120 dys-11 mos 29 dys §55-10-403
Mandatory Minimum Term:	1st off-48 hrs; 2nd off (w/n 10 yrs)-45 dys; 3rd and subsequent off (w/n 10 dys)-120 dys
Fine:	
Amount ($ Range):	1st off-$250-1,000; 2nd off (w/n 10 yrs)-$500-2,500; 3rd and subsequent off (w/n 10 dys)-$1,000-5,000; §55-10-403
Mandatory Min. Fine ($):	1st off-$250; 2nd off (w/n 10 yrs)-$500; 3rd and subsequent off (w/n 10 yrs)-$1,000 (unless judge determines defendant is indigent)
Other Penalties:	
Community Service:	After serving the minimum sentence, a judge may order the defendant to remove litter from various public areas or work in a recycling center or "other appropriate location" for any period of time in lieu fo or in additional to other penalities. The community service work may be done at non-working hrs. §55-10-104
Restitution (eg Victim's Fund):	Shall be ordered as a condition of probation (probation may commence only after minimum jail sentence has been serve) if defendant can afford it. §55-10-403
Other:	Upon conviction all defendants in counties with 600,000 or more people and in counties with a metropolitan form of government, must pay a BAC test fee of $10. This fee is paid to the county. §55-10-403
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	No
UVC Type of Provisions:	Yes
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Rev §55-10-403, §55-7-113
Term of License Withdrawal (Days, Months, Years, etc.):	1st off - 1 yr; 2nd off (w/n 10 yrs) - 2 yrs; 3rd and subsequent offs (w/n 10 yrs) - 3 to 10 yrs; §55-10-403, §55-7-112

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Minimum Term of Withdrawal:	1st off - 1 yr[1]; 2nd off - 2 yrs; 3rd and subsequent offs - 3 yrs

Other:

Rehabilitation:	
Alcohol Education:	Yes see below
Alcohol Treatment:	Yes, participation in an alcohol safety DWI prog. is required as part of probation (probation can begin only after serving the min. imprisonment term). For 2nd and subsequent convictions, a condition of probation is participation in a rehab prog. treatment facility.[2]
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	N/A
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Off:	Yes §39-2-231
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	1 to 21 yrs §39-2-232
Mandatory Minimum Term:	No
Fine ($ Range):	No
Mandatory Minimum Fine:	No

---

[1] Hardship license for employment available after 1st conviction if no one was killed or seriously injured as a result of the DWI off. §55-10-403, §55-7-113

[2] For 2nd and subsequent convictions rev will be lifted only upon showing that defendant has participated in a program of rehabilitation at an alcohol treatment facility. §55-10-403

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Administrative Licensing Action:

Licensing Authorized and Type of Action: Rev §55-7-112

Length of Term of Licensing Withdrawal: Equals term of sentence received. If paroled, the defendant may have their license reissued upon satisfactory completion of licensing exam and on petition of defendant's parole officer. §55-7-112

Mandatory Action--Minimum Length of License Withdrawal: 1 yr

Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Off:

Sanction:

Criminal:

Imprisonment (Term): 1st off - 2 dys to 6 mos; 2nd off - 45 dys to 11 mos 29 dys; §55-7-116

Mandatory Minimum Term of Imprisonment: 1st off - 2 dys; 2nd off - 45 dys

Fine ($ Range): 1st off - $0 - 500; 2nd off - $500 to 1,000; §55-7-116

Mandatory Minimum Fine: No

Administrative Licensing Actions:

Type of Licensing Action (Susp/Rev): Susp - if the conviction was based on driving while suspended; Rev - if the conviction was based on driving while revoked.

Length of Term of License Withdrawal Action: An additional susp period which is equal to the original period; The original rev period extended 1 yr.

Mandatory Term of License Withdrawal Action: An additional susp period which is equal to the original period; The original rev period extended 1 yr.

Habitual Offender Laws:

State Has Such Law (Yes/No): Yes §§55-10-601 to 55-10-617

Grounds for Being Declared an Habitual Offender: 3 convictions of any of the following offs w/n 3 yrs: 1) voluntary or involuntary motor veh homicide; 2) DWI; 3) failure to stop at scene of an accident; 4) violation of statute on meeting and overtaking school buses.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While Under Habitual Offender Status: 3 yrs

Type of Criminal Off if Convicted on Charges of Driving While on Habitual Offender Status: Felony

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

- Imprisonment (Term): 1 to 10 yrs Section 39-1-201
- Mandatory Minimum Term of Imprisonment: No
- Fine ($ Range): N/A
- Mandatory Minimum Fine ($): No
- Licensing Actions (Specify): 1 yr rev (additional)

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

- State Has Such a Law (Yes/No): Yes (but discretionary) See §38-7-109
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Discretionary
  - Vehicle Passengers: Discretionary
  - Pedestrian: Discretionary

Laws Esta[illegible]hing the Minimum Ages Conce[illegible]lcoholic Beverages:

- Mi[illegible]ge (Years) Sale/Purchase: 21 §57-4-203(b) (Year Eff. 1984)
- Minim[illegible]e (Years) Possession: 21 There is an employment exemption
- Minimu[illegible]e (Years) Consumption: 21 §§1-33-113, 57-4-203(b)(1) and (2) and 57-5-301

Dram Sho[illegible]ws and Related Legal Actions:

- State Has a Dram Shop Law (Yes/No): No
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): Yes, Mitchell v. Ketner: 54 Tenn. App. 656. 393 S.W. 2d 755 (1964)
- Other: No

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd §57-4-203
Term of Imprisonment:	30 dys to 6 mos
Fine ($ Range):	$500 to 1,000

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes
Length of Term of License Withdrawal:	1st off - time period not specified in the statute; 2nd off - Permanently

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	1st off - Misd; 2nd and subsequent offs - Felony; §57-4-203
Term of Imprisonment:	1st off - 30 dys to 6 mos; 2nd and subsequent offs - 1 to 3 yrs
Fine ($ Range):	1st off - $25 to 500, $500 to 1,000; 2nd and subsequent offs - $500 to 3,000

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes §57-5-303
Length of Term License Withdrawal:	1st off - 1 time period not specified in the statute[1]; 2nd and subsequent offs - Permanent; §57-5-109, §57-5-303

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	No

---

[1] For alcoholic beverages of less than 5%, 1st off - License susp for not to exceed ten (10) dys; see §57-5-109(b).

STATE:	TEXAS
General Comments:	See Vernon's Texas Civil Statutes

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	0.10% 67011-1(a)(2)(B)
Presumption (BAC Level):	N/A
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes 67011-5
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes 67011-5
Urine:	No
Other:	N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes, See Section 4, Article 42.12 and Section 4, Article 42.13, Code of Criminal Procedure.

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	Susp - 90 dys 6701-5, sec. 21f
Other:	(Hardship licenses may be issued; see 6687b, sec. 23A)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

- Imprisonment:
  - Term (Day, Month, Years, Etc.): 1st off - 72 hrs to 2 yrs; 2nd off (w/n 10 yrs) - 15 dys to 2 yrs 6701-L2; Subsequent offs (w/n 10 yrs) - Not less than 30 dys nor more than 2 yrs in county jail or not less than 60 dys nor more than 5 yrs in the State penitentiary.
  - Mandatory Minimum Term: 1st off - None; 2nd off (w/n 10 yrs) - 72 hrs[1]; Subsequent offs (w/n 10 yrs) - 10 dys[1] 6701191(c), (d) & (d)
  - Fine:
    - Amount ($ Range): 1st off - $100 to 2,000; 2nd off (w/n 10 yrs) 6701-L2 - $300 to 2,000; Subsequent offs (w/n 10 yrs) - $500 to 2,000
    - Mandatory Min. Fine ($): None
  - Other Penalties:
    - Community Service: 1st off - Yes; 2nd off (w/n 10 yrs) 6701-L2 - Yes; Subsequent offs (w/n 10 yrs) 67011-1(c), (d) & (e) - Yes
    - Restitution (eg Victim's Fund) None
    - Other: Special Note - If there as been bodily injury of another person as a result of the defedant's actions for each of these offs the min. term of imprisonment is increased by 60 dys (30 dys are mandatory[1]) and min. and max. fines are increased by $500.

Administrative Licensing Actions:

- Pre-DWI Conviction Licensing Action:
  - Administrative Per Se Law: No
  - UVC Type of Provisions: No
  - Other: N/A
- Post DWI Conviction Licensing Action:
  - Type of Licensing Action (Susp/Rev): Susp (Note: A restricted licensed may be issued for either occupation reasons or for participation in an alcohol treatment/rehabilitation program; See Art. 6687b as amended by Sec. 11 of H.B. 1273 which was enacted in 1983.)

---

[1] As a part of probation; see section 6b, Article 42.12 and section 6b, Article 42.13 Code of Criminal Procedure; or confinement in a treatment facility for not more than 90 dys in lieu of sentence of fine (see 5561c, sec. 12)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.): 90 to 365 dys subsequent off; 180 dys to 2 yrs. See footnote.

Mandatory Minimum Term of Withdrawal: Special Note: A license may not be suspended if either (1) a defendent is required to attend an alcohol education/treatment program or (2) a jury recommends no susp. Art. 6687 Sec. 24 (g)(1) Section 3a, Art. 32.13 Code of Criminal Procedure

Other:

Rehabilitation:

Alcohol Education: Yes (driver's education training) 6687(b) §24A(a)

Alcohol Treatment: Yes 5561(C) §12

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): A restricted license may be issued for either occupational reasons or for participation in an alcohol/drug treatment/rehabilitation program; see Art. 6687b as amended by sec. 11 of H.B. 1273 which was enacted in 1983.

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: Yes - A defendant's veh may be subject to forefeiture by the State following three or more DWI convictions. 67011-7

Terms Upon Which Vehicle Will Be Released: Not specified

Other: N/A

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, 3rd degree felony. §19.05 Penal Code

Sanctions:

Criminal Sanction:

Imprisonment (Term): 2 to 10 yrs §12-34 Penal Code

Mandatory Minimum Term: No

Fine ($ Range): $5,000

Mandatory Minimum Fine: No

Footnote: For persons under 17: 1st offense - suspension from 90 to 365 days; subsequent offenses - a suspension of 365 days or until the person reaches 19 whichever is the longer suspension period. These suspension periods may be deferred if the person attends and successfully completes an alcohol education program under sec. 6c, Art. 42.13, Code of Criminal Procedure. See also, sec. 54.042, Ch. 54, Family Code.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Susp 6687(b) §§22(b)(2) and §24(a)
Length of Term of Licensing Withdrawal:	Not more than 1 yr 6687(b) §23
Mandatory Action--Minimum Length of License Withdrawal:	N/A
Other:	N/A
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Not less than 72 hrs nor more than 6 mos. 6687(b), §34
Mandatory Minimum Term of Imprisonment:	No
Fine ($ Range):	Not less than $25 nor more than $500
Mandatory Minimum Fine:	No
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp 6687(b) §24(c)
Length of Term of License Withdrawal Action:	12 mos
Mandatory Term of License Withdrawal Action:	12 mos
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes 6687(b), §22(b)(4)
Grounds for Being Declared an Habitual Offender:	"Any person with 4 or more convictions arising out of different transactions in a cons period of 12 mos or 7 or more convictions arising out of different transactions w/in a period of 24 mos..." 6687(b) §22(b)(4)
Term of License Rev While Under Habitual Offender Status:	Susp for not more than 1 yr 6687(b) §22(a)
Offender Status:	An occassional license may be issued on a showing of "essential need"; see 6687b §23A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	None
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

STATE - Texas

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes See 6701(d), §46
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes (indirectly at 6701(d), §46)
Vehicle Passengers:	Yes
Pedestrian:	Yes
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 (Year Eff: 1981) Alcoholic Beverage Code §106.01 et. seq.
Minimum Age (Years) Possession:	19, exemptions for employment or while in the presence of a parent or gardian.
Minimum Age (Years) Consumption:	19, (Exemption for a minor's consumption of alcoholic beverages when they are in the "visable presence" of a parent or gardian.)
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	No (For a case involving potential employer liability for the acts committed by an intoxicated employee while driving home, see Clark v. Otis Engineering Corp., 633 S. W. 538 (CA, 1982)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	Misd; §101.63 Note: All statute references come from Vernon's Texas Code Annotated Alcoholic Beverage Code
Type of Criminal Action:	
Term of Imprisonment:	1st off - Not more than 1 yr 101.63(a); 2nd off - Not more than 1 yr 202.62(b)
Fine ($ Range):	1st off - Not less than $100 nor more than $500; 2nd off - Not less than $500 nor more than $1,000

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
- License to Serve Alcoholic Beverages Withdrawn (Yes/No): Yes
- Length of Term of License Withdrawal: Not more than 60 dys, §61.71

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
- Type of Criminal Action: Misd
- Term of Imprisonment: Not more than 1 yr; see §106.06
- Fine ($ Range): Not less than $100 nor more than $500; see §106.06

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
- License to Serve Alcohlic Beverages Withdrawn (Yes/No): Yes (license may be suspended or cancelled at Commissions discretion §106.13(a))
- Length of Term License Withdrawal: 1st off - not more than 60 dys; 2nd off - not more than 3 mos; 3rd off (within 36 mos) - not more than 12 mos

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
- Open Container Law (Yes/No): No
- Anti-Consumption Law (Yes/No): No

STATE:	UTAH
General Comments:	See Utah Code Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.08% §41-6-44(1)
Presumption (BAC Level):	N/A
Other:	N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	No
Implied Consent Law:	
Arrest Required (Yes/No):	Yes §41-6-44.10(2)
Other Information:	No

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes §41-6-44.10
Urine:	Yes §41-6-44.10
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No (Note: A Magistrate may not grant diversion in a DWI case; see §77-2-9)
Anti-Plea Bargaining Statute (Yes/No):	No (Note: If the defendant pleads guilty or *nolo contendere* to reckless driving as a substitute for DWI charge, the prosecution must state for the record whether alcohol or drug was related to the pleaded off.) §41-6-44(7)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No (optional in felony cases, e.g., veh homicide) §76-3-404

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

STATE - Utah

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): N/A

Administrative Licensing Action (Susp/Rev): Rev for 1 yr Mandatory; §41-6-44.10(2) (Note: No hardship license may be issued for revs based on a test refusal; see §41-2-19(d).)

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): 1st off, non-injury related - 60 dys to 6 mos; injury related (negligence) - not more than 1 yr; 2nd off (w/n 5 yrs), non injury related - 60 dys to 6 mos; injury related (negligence) - not more than 1 yr; Injury related (negligence) - Not more than 1 yr

Mandatory Minimum Term: 1st off, non-injury related - 48 hrs; injury related (negligence) - 48 cons hrs; 2nd off (w/n 5 yrs), non-injury related - 48 cons hrs; injury related (negligence) - 48 cons hrs; Subsequent off (w/n 5 yrs), non-injury related - 30 dys; injury related (neg) - 30 dys

Fine:

Amount ($ Range): 1st off, non-injury related - $299[1]; injury related (negligence) - Not more than $1,000[1]; 2nd off (w/n 5 yrs), non-injury related - $299[1]; injury related (negligence) - Not more than $1,000[1] Subsequent offs (w/n 5 yrs), Non-injury related - $299[1]; Injury related (negligence) - Not more than 1,000[1]

Mandatory Min. Fine ($): See footnote 1 below

---

[1] Under §63-43-10(1), the Court is required to impose, in addition to the above fines, a special fine of $150 for 1st offenders, $299 for 2nd and subsequent offenders; this special fine is for the purpose of funding alcohol education and treatment programs under §63-43-11; in addition, under §63-43-10(2), the Court is also required to impose other assessments that fully compensate agencies for the costs of treating DWI defendants.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other Penalties:	
Community Service:	1st off, non-injury related - 2 to 10 dys in lieu of imprisonment (2 dys mandatory); 2nd off (w/n 5 yrs), Non-injury related - 10 to 30 dys in lieu of imprisonment (10 dys are mandatory); Subsequent offs (w/n 5 yrs), Non-injury related - 30 to 90 dys in lieu of imprisonment (30 dys are mandatory)
Restitution (eg Victim's Fund):	Yes See §41-24-1 et. seq.
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes (BAC of 0.08%) 1st admin action - Susp for 90 dys; 2nd and subsequent admin actions - Susp for 120 dys (The susp pd. begins on the 31st dy after the arrest.) Note: These license susps appear to be mandatory. §41-2-19.6
UVC Type of Provisions:	Yes §41-2-19
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	1st DWI off (for either injury or non-injury related offs)-Susp; 2nd and subsequent DWI offs (for either injury or non-injury related offs)-Rev; §41-6-44(9) (See new §41-2-19-(a)(6))
Term of License Withdrawal (Days, Months, Years, etc.):	1st DWI off (for either injury or non-injury related offs) - 90 dys; 2nd or subsequent offs (for either injury or non-injury related offs) - 1 yr; §41-6-44-(9)
Mandatory Minimum Term of Withdrawal:	1st DWI off (for either injury or non-injury related offs) - 90 dys; 2nd or subsequent offs (either injury or non-injury related offs) - 1 yr; §41-6-44(9) Note: No hardship license may be issued for DWI related susps/revs; see §41-2-28(d)

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	
Rehabilitation:	
Alcohol Education:	Yes, judge must order a convicted DWI defendant to attend either an education or treatment program
Alcohol Treatment:	N/A
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	N/A
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes Note: There are two different types of veh homicide. 1) Negligent homicide (death caused by the op. of a veh. in reckless disregard of the safety of others) §41-6-43-10 2) Auto homicide-felony, 3rd degree (death caused by the negligent op. of a motor veh. while under the influence of alc. §76-5-207
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Negligent homicide - Not more than 1 yr; Automobile homicide - Not more than 5 yrs
Mandatory Minimum Term:	N/A
Fine ($ Range):	1) Negligent homicide - $100 to 1,000; 2) Automobile homicide - Not more than $5,000; §76-3-3-1(2)
Mandatory Minimum Fine:	N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

- Administrative Licensing Action:
  - Licensing Authorized and Type of Action: 1) Negligent homicide - Rev 2) Automobile homicide - Rev; §41-2-18(a)(1) and (4)
  - Length of Term of Licensing Withdrawal: 1) Negligent homicide - 1 yr; 2) Automobile homicide - 1 yr; §41-2-21(1) and (4) and §41-2-21
  - Mandatory Action--Minimum Length of License Withdrawal: Automobile homicide - 1 yr (No hardship license may be issued; see §41-2-18(d))
  - Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:

- Sanction:
  - Criminal:
    - Imprisonment (Term): 6 mos (maximum); 241-6-28, 241-2-30-2 and 241-6-44
    - Mandatory Minimum Term of Imprisonment: No
    - Fine ($ Range): $299 to 1,000; §41-2-30
    - Mandatory Minimum Fine: No
  - Administrative Licensing Actions:
    - Type of Licensing Action (Susp/Rev): For driving while suspended - Susp; For driving while revoked - Rev; §41-2-18(b)
    - Length of Term of License Withdrawal Action: For driving while suspended - an additional like period of susp for driving while revoked; For driving while revoked 1 yr additional period rev ; §41-2-18(b)
    - Mandatory Term of License Withdrawal Action: For driving while suspended an additional like period of susp; For driving while revoked 1 yr additional period of rev

Habitual Offender Laws:

- State Has Such Law (Yes/No): No
- Grounds for Being Declared an Habitual Offender: N/A
- Term of License Rev While Under Habitual Offender Status: N/A
- Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: N/A

Other State Laws Related To Alcohol Use And Driving:

Sanctions Following a Conviction of Driving While on Habitual Offender Status:
- Imprisonment (Term): N/A
- Mandatory Minimum Term of Imprisonment: N/A
- Fine ($ Range): N/A
- Mandatory Minimum Fine ($): N/A
- Licensing Actions (Specify): N/A

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
- State Has Such a Law (Yes/No): Yes
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Yes §26-1-30(17), §41-644.10
  - Vehicle Passengers: No
  - Pedestrian: Yes (adults only) §26-1-30(17)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
- Minimum Age (Years) Sale/Purchase: 21 §§32-7-15 and 32-7-15.4 (Year Eff: 1935)
- Minimum Age (Years) Possession: 21
- Minimum Age (Years) Consumption: 21

Dram Shop Laws and Related Legal Actions:
- State Has a Dram Shop Law (Yes/No): Yes §32-11-1
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): No
- Other: No

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
- Type of Criminal Action: Misd §§32-7-14, 32-8-59
- Term of Imprisonment: 30 dys to 1 yr (mandatory)
- Fine ($ Range): $100 to 1,000 (mandatory)

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes
Length of Term of License Withdrawal:	3 yrs

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	Misd §§32-7-15, 32-8-59
Term of Imprisonment:	30 dys to 1 yr (mandatory)
Fine ($ Range):	$100 to 1,000 (mandatory)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes
Length of Term License Withdrawal:	3 yrs

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	Yes §41-6-44.20(20
Anti-Consumption Law (Yes/No):	Yes - driver and passengers §41-6-44.20(1)

STATE: VERMONT
General Comments: See Vermont Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes, 0.10% 23 §1201
Presumption (BAC Level): Yes, 0.10% 23 §1204
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes 23 §1201
Implied Consent Law:
- Arrest Required (Yes/No): Unclear, but probably not 23 §1202(b)
- Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: No
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes, the court may require a defendant to undergo an alcohol assessment screening 23 §§4(49) and 1210(a)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
- Criminal Sanctions (Fine/Jail): No
- Administrative Licensing Action (Susp/Rev): No
- Other: No

STATE - Vermont

Sanction for Refusal to Submit to a BAC Chemical Test: (continued)

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): No

Administrative Licensing Action (Susp/Rev): 1st off - Susp 6 mos (mand.); 2nd off (after 5 yrs) - 6 mos susp (mand.); 2nd off (w/n 5 yrs) - 18 mos susp (mand.); 3rd off - 3 yr rev (2 yrs mand.); 4th and subsequent offs (after 15 yrs from 1st) - Rev 6 yrs (2 yrs mand.); 4th and subsequent offs (w/n 15 yrs of 1st) - Rev for life (2 yrs mandatory); 23 §1205

Other: Special Note: 1) A previous DWI conviction is also considered a previous refusal for the purpose of computing subsequent chemical test refusals. (2) If a person, who has had their license revoked for three (3) or more yrs, has abstained from the consumption of alcohol for two (2) yrs, they may have their license reinstated. (3) Before a license can be reinstated following a susp/rev for any chemical test refusal, a person must complete an alcohol and driver education program; for 2nd (w/n 5 yrs) and 3rd refusals, the driver must also complete a therapy program at their own expense before their license is reinstated.

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): DWI Offs: 1st off - Not more than 1 yr; 2nd off (w/n 5 yrs) - Not more than 1 yr; 3rd off (w/n 15 yrs) - Not more than 1 yr; Serious injury related DWI off - 1 to 15 yrs; 23 §1210

Mandatory Minimum Term: 2nd DWI off (w/n 5 yrs) - 48 cons hrs (Community service in lieu of imprisonment); 3rd DWI off (w/n 15 yrs) - 48 cons hrs

Fine:

Amount ($ Range): 1st off - $200 to 750; 2nd off (w/n 5 yrs) - $250 to 1,000; 3rd off (w/n 15 yrs) - $500 to 1,500; Serious injury related DWI off - Not more than $3,000

Mandatory Min. Fine ($): N/A

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other Penalties:

- Community Service: 2nd off (w/n 5 yrs) - Not less than 10 dys; 3rd DWI off (w/n 15 yrs) - Not less than 10 yrs (Community service in lieu of imprisonment)
- Restitution (eg Victim's Fund): N/A
- Other: N/A

Administrative Licensing Actions:

- Pre-DWI Conviction Licensing Action:
  - Administrative Per Se Law: No
  - UVC Type of Provisions: No
  - Other: No
- Post DWI Conviction Licensing Action:
  - Type of Licensing Action (Susp/Rev): 1st off - Susp; 2nd off (after 5 yrs of 1st) - Susp; 2nd off (w/n 5 yrs) - Susp; 3rd off - Rev; 4th and subsequent offs (after 15 yrs of 1st) - Rev; 4th and subsequent offs (w/n 15 yrs) - Rev; 23 §§1206 and 1208[1]
  - Term of License Withdrawal (Days, Months, Years, etc.): 1st off - 90 dys; 2nd off (after 5 yrs of 1st) - 90 dys; 2nd off (w/n 5 yrs) - 18 mos; 3rd off - 3 yrs; 4th and subsequent offs (after 15 yrs of 1st) - 6 yrs; 4th and subsequent off (w/n 15 yrs of 1st) - Life
  - Mandatory Minimum Term of Withdrawal: 1st off-90 dys; 2nd off (after 5 yrs of 1st)-90 dys; 2nd off (w/n 5 yrs)-18 mos; 3rd off-2 yrs; 4th and sub offs (after 15 yrs of 1st)-2 yrs; 4th and sub offs (w/n 15 yrs)-2 yrs; See Rehabilitation
- Other:
  - Rehabilitation:
    - Alcohol Education: Yes

Special Note No. 1: For any DWI off conviction, a defendant must complete an alcohol and driver education program prior to having their license reinstated.

Special Note No. 2: For 2nd (w/n 5 yrs) and 3rd DWI off convictions, a defendant must also complete a therapy program at their own expense.

Special Note No. 3: If a person has had their license revoked for 3 or more yrs as a result of a DWI conviction, they may have their license reinstated provided they have abstained from the consumption of alcohol for 2 yrs; 23 §§1206, 1208 and 1209a.

---

[1] Note: Vermont has a point system, but such a system does nto apply to DWI cases; see 23 §2502.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Alcohol Treatment: Yes, see Special Notes above
Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): No

Vehicle Impoundment/Confiscation:
Authorized by Specific Statutory Authority: No
Terms Upon Which Vehicle Will Be Released: N/A
Other: N/A
Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:
State Has Such Law/Type of Offense: Yes (There are two veh homicide laws, 23 §1901(c) applies to death caused by motor veh operation in violation of law: 23 §1210(e) applies to death caused by DWI. The criminal sanctions for a conviction under either section are the same.)

Sanctions:
Criminal Sanction:
Imprisonment (Term): 1 to 15 yrs Special Note: These penalties do not foreclose the option of tougher penalties for manslaughter (homicide) convictions. 23 §1091(c) and 23 §1210(e)
Mandatory Minimum Term: No
Fine ($ Range): $3,000
Mandatory Minimum Fine: No

Administrative Licensing Action:
Licensing Authorized and Type of Action: If death is DWI related, ie. a 23 §1210(e) conviction - Susp[1]; If death is not DWI related, a 23 §1091(c) conviction - Susp; 23 §§1206(b), 23 1210(e), 23 1091(c)
Length of Term of Licensing Withdrawal: If death is DWI related - 1 yr; If death is not DWI related - 1 yr plus any other susp period required under the point system; see 23 §§2505 and 2506

---

[1] Before a defendant's license is reinstated, they must complete an alcohol and driver education program; see 23 §§1206(b) and 1209(a)

Other Criminal Actions Related to Alcohol Use and Driving:

Mandatory Action--Minimum Length of License Withdrawal:	If death is DWI related - 1 yr; If death is not DWI related - 1 yr plus any other susp period required under the point system; see 23 §§2505 and 2506
Other:	N/A
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off - 30 dys; 2nd off - 90 dys; 3rd off - 6 mos; 4th off - 2 yrs; 23 §674
Mandatory Minimum Term of Imprisonment:	None (Note: In certain cases there are mandatory minimum sanctions; see 23 §674(c))
Fine ($ Range):	1st off - $500; 2nd off - $500; 3rd off - $1,000; 4th off - $1,000; 23 §674
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	All offs - Susp
Length of Term of License Withdrawal Action:	1st off - 30 dys (additional); 2nd off - 90 dys; 3rd and 4th offs - 6 mos or susp under the point system whichever is greater; 23 §2506 Note: If more than one license susp/rev results from the same incident, the susp/rev periods are cons.
Mandatory Term of License Withdrawal Action:	N/A
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes, 23 §673
Grounds for Being Declared an Habitual Offender:	8 or more convictions based on moving violations (with 6 points or more assessed) and DWI offs within 5-yr period

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Term of License Rev While Under Habitual Offender Status: 2 yrs

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: Misd

Sanctions Following a Conviction of Driving While on Habitual Offender Status:

- Imprisonment (Term): 1st off - 30 dys; 2nd off - 90 dys; 3rd off - 6 mos; 4th and subsequent offs - 2 yrs
- Mandatory Minimum Term of Imprisonment: Note: Mandatory minimum sanctions in certain cases; 23 §674(c)
- Fine ($ Range): 1st off - $500; 2nd off - $500; 3rd off - $1,000; 4th and subsequent offs - $1,000
- Mandatory Minimum Fine ($): None
- Licensing Actions (Specify): 1st off Susp - 30 dys (additional); 2nd off Susp - 90 dys; 3rd off Susp - 6 mos; 4th and subsequent offs Susp -6 mos or susp under point system whichever is greater.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

- State Has Such a Law (Yes/No): Yes
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Yes 23 §1202
  - Vehicle Passengers: Unclear, probably yes
  - Pedestrian: Unclear, probably yes

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

- Minimum Age (Years) Sale/Purchase: 18 (Year Eff: 1971) 7 §§173, 657 and 658
- Minimum Age (Years) Possession: 18 (employment exemption) Special Note: The law does not specifically prohibit possession or consumption per se but makes illegal the possession on alcoholic beverages by minors for the purpose of consumption.
- Minimum Age (Years) Consumption: 18 see special note above

Dram Shop Laws and Related Legal Actions:

- State Has a Dram Shop Law (Yes/No): Yes 7 §501

Other State Laws Related To Alcohol Use And Driving: (continued)

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	No
Other:	No
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	None. Specified dram shop section implies that some sales of alcohol may be unlawful (e.g., if to person is on a list of persons to whom alcohol is not to be sold). 7 §501
Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	No, but license revoked if civil judgement against licensee is not paid within 30 dys; 7 §501
Length of Term of License Withdrawal:	Intermediate
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Misd
Term of Imprisonment:	2 yrs 7 §658
Fine ($ Range):	$200 - $1,000
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes 7 §236
Length of Term License Withdrawal:	Intermediate 7 §236
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes, driver only; 23 §1134

STATE: VIRGINIA
General Comments: See Code of Virginia Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes, 0.15% §18.2-266
Presumption (BAC Level): Yes, 0.10% §18.2-269(3)
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes §18.2-267(c)
Implied Consent Law:
Arrest Required (Yes/No): Yes §18.2-268
Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: N/A
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
Criminal Sanctions (Fine/Jail): None
Administrative Licensing Action (Susp/Rev): None
Other: N/A

Refusal to Take Implied Consent Chemical Test
Criminal Sanction (Fine/Jail): None
Administrative Licensing Action (Susp/Rev): Susp for 6 mos to 1 yr; for a second or subsequent refusal w/n 1 yr - susp for 1 yr (Mandatory) §18.2-2681(n)
Other: N/A

Sanctions Following a Conviction for a DWI Offense:

- Criminal Sanctions:
  - Imprisonment:
    - Term (Day, Month, Years, Etc.): 1st off -12 mos; 2nd off (w/n 5 yrs)-1 mo-1 yr; 2nd off (5-10 yrs from 1st)-1 mo-1 yr; 3rd and sub off (w/n 5 yrs)-2 mos-1 yr; 3rd and subsequent offs (5-10 yrs from 1st)-2 mos-1 yr; §18.2-270 Cl 1 misd for all offs
    - Mandatory Minimum Term: 2nd off (w/n 5 yrs)-48 hrs; 3rd and sub off w/n 5 yrs-30 dys; 3rd and subsequent off w/n 5-10 yrs from 1st off - 10 dys
    - Fine:
      - Amount ($ Range): 1st off-Not more than $1,000; 2nd off (w/n 5 yrs)-$200-1,000; 2nd off (5-10 yrs from 1st)-$200-1,000; 3rd and sub off (w/n 5 yrs) -$500-1,000; 3rd and subsequent off (5-10 yrs from 1st) - $500-1,000
      - Mandatory Min. Fine ($): None
    - Other Penalties:
      - Community Service: None
      - Restitution (eg Victim's Fund): None
      - Other: References §§18.2-11, 18.2-266, 18.2.2 70, and 46.1-423.1
- Administrative Licensing Actions:
  - Pre-DWI Conviction Licensing Action:
    - Administrative Per Se Law: None
    - UVC Type of Provisions: None
    - Other: N/A
  - Post DWI Conviction Licensing Action:
    - Type of Licensing Action (Susp/Rev): 1st off-Privilege to operate any motor veh is deprived[1]; 2nd off (w/n 5 yrs)-Rev; 2nd off (5-10 yrs from 1st)-Rev; 3rd and sub off (w/n 10 yrs) Rev
    - Term of License Withdrawal (Days, Months, Years, etc.): 1st off-6 mos; 2nd off (w/n 5 yrs)-3 yrs; 2nd off (5-10 yrs from 1st)-3 yrs; 3rd and sub off (w/n 10 yrs)- 10 yrs (See special note at the end of the Sanctions section)

---

[1] Either susp or rev.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Minimum Term of Withdrawal:	1st off - See footnote 1; 2nd off (w/n 5 yrs) 2 yrs[2]; 2nd off (5-10 yrs from 1st)-1 yr[2]; 3rd and sub off (w/n 10 yrs)-5 yrs (See Special Note at end of Sanctions section); (See special note under Miscellaneous Sanctions.)
Other:	
Rehabilitation:	
Alcohol Education:	1st off-Yes; 2nd off (w/n 5 yrs)-Yes; 2nd off (5-10 yrs from 1st)-Yes; 3rd and sub off - See special note at Miscellaneous Sanctions; §18.2-271.1
Alcohol Treatment:	1st off-Yes; 2nd off (w/n 5 yrs)-Yes; 2nd off 5-10 yrs from 1st-Yes; 3rd and sub off-See Special Note at Miscellaneous Sanctions
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	If court authorizes an offender to participate in either an education or treatment program, a restricted permit may be issued.
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	Under §46.1-418 a defendant's veh registration certificate and registration plates shall also be suspended when the defendant's license is either suspended or revoked
Miscellaneous Sanctions Not Included Elsewhere:	Special Note: If a person is at the time of the DWI conviction dependent on alcohol, their license may be restored after 5 yrs provided they have been cured of such dependency, and are not otherwise a threat to the public safety.

---

[1] A restricted lic. may be reissued if defendant participates in a rehabilitation program.

[2] A restricted lic. may be issued after the minimum period of lic. withdrawl has passed and a defendant has completed a rehabilitation program.

STATE - Virginia

Other Criminal Actions Related to Alcohol Use and Driving:

- Homicide by Vehicle:
  - State Has Such Law/Type of off: No
  - Sanctions:
    - Criminal Sanction:
      - Imprisonment (Term): N/A
      - Mandatory Minimum Term: N/A
      - Fine ($ Range): N/A
      - Mandatory Minimum Fine: N/A
    - Administrative Licensing Action:
      - Licensing Authorized and Type of Action: Special Note: Even though this State does not have a veh homicide statute, it, nevertheless, provides for a mandatory 1 yr rev for a conviction of manslaughter resulting from the operation of a motor veh.
      - Length of Term of Licensing Withdrawal: N/A
      - Mandatory Action--Minimum Length of License Withdrawal: N/A
      - Other: N/A
- Driving While License Suspended or Revoked Where the Basis Was a DWI Off:
  - Sanction:
    - Criminal:
      - Imprisonment (Term): 1st off - 10 dys-6 mos; 2nd and subsequent offs-2 mos-1 yr
      - Mandatory Minimum Term of Imprisonment: A portion but not all of the jail sentence may be suspended, however, the term of mandatory imprisonment is not not specified in the statute (Code of Va. Ann. §§46.1-350, -351.1)
      - Fine ($ Range): 1st off-$100-200; 2nd and subsequent offs-$200-1,000
      - Mandatory Minimum Fine: N/A
    - Administrative Licensing Actions:
      - Type of Licensing Action (Susp/Rev): 1st off-Rev or Susp
      - Length of Term of License Withdrawal Action: The same period for which the license has been previously suspended or revoked; if the original period not specified, then the Susp or Rev is not to exceed 90 dys.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Mandatory Term of License Withdrawal Action:	The same period for which the license has been previously suspended or revoked; if the original period not specified, then the Susp or Rev is not to exceed 90 dys.
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes §§18.2-8, 46.1-387.9:2, 46.1-387.1 to .12, 46.1-514.6 et seq.
Grounds for Being Declared an Habitual Offender:	3 serious offs within 1 yr or 12 serious and/or minor violations with 10 yrs
Term of License Rev While Under Habitual Offender Status:	10 yrs
Type of Criminal Off if Convicted on Charges of Driving While on Habitual Offender Status	Felony
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	1-5 yrs
Mandatory Minimum Term of Imprisonment:	Note: The statute states that a portion of the sentence may be suspended, thus there would appear to be an unspecified mandatory term since the law states that just a portion of such term may be suspended
Fine ($ Range):	None
Mandatory Minimum Fine ($):	None
Licensing Actions (Specify):	None specified

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	No
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	N/A
Vehicle Passengers:	N/A
Pedestrian:	N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 for beer; 21 for all other alcoholic beverages (Year Eff: 1983) §§4-5, 4-62 & 4-112
Minimum Age (Years) Possession:	19 for beer; 21 for all other alcoholic beverages. Special exemptions for physicians who administer alcoholic beverages to minors, for employment reasons, and at the order of a parent. §§4-5, 4-62 & 4-112
Minimum Age (Years) Consumption:	N/A Special Exemptions for physicans who administer alcoholic beverages to minors, for employment reasons, and at the order of a parent.)
Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation	No
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Misd §§4-37, 4-62, and 4-92 and 4-98.10
Term of Imprisonment:	30 dys-12 mos
Fine ($ Range):	$50-500
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, Rev or susp (See note in section on sanctions for serving minors intoxicating liquor.)
Length of Term of License Withdrawal:	Time period is not specified in the statute

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	Misd §§4-37(C1), 4-37(C2), 4-37(j), 4-62, 4-92 and 4-98.10
Term of Imprisonment:	30 dys-12 mos
Fine ($ Range):	$50-500
Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:	
License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Rev or susp (Note: In addition or in lieu of revoking or suspending a license, a civil fine may be imposed as follows: 1st--Not more than $1,000 2nd--Not more than $2,500 3rd--Not more than $5,000)
Length of Term License Withdrawal:	Time period not specified in the statute
Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:	
Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Possible[1] driver and passengers §4-78

---

[1] The law states that "If a person shall take a drink of alcoholic beverages or shall tender a drink thereof to another whether accepted or not, at or in any public place, he shall be guilty of a Cl 4 misd." The law provides exemptions to this prohibition for licensed establishments, commercial carriers and the consumption of beer at certain sporting events.

STATE: **WASHINGTON**
General Comments: See Revised Code of Washington Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): Yes, 0.10% §46-61.506(1)
Presumption (BAC Level): No
Other: N/A

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
Arrest Required (Yes/No): Yes §46-20-308
Other Information: Special Note: A person may be administered either a breath or blood test without their consent, if they have been arrested for either (1) vehicle homicide, (2) vehicle assult or (3) DWI where there has been an injury related accident which may result in death; see §46.20.308

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: No
Other: No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No (Note: Court appearance mandatory.)
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): Yes Permissive authorization, but not mandatory; see §46.61.515

STATE - Washington

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:

Criminal Sanctions (Fine/Jail): N/A

Administrative Licensing Action (Susp/Rev): N/A

Other: N/A

Refusal to Take Implied Consent Chemical Test

Criminal Sanction (Fine/Jail): None

Administrative Licensing Action (Susp/Rev): 1st refusal-Rev for 1 yr (Mandatory); 2nd refusal (w/n 5 yrs) Rev for 2 yrs (Mandatory) §46.20.308 and §1 of H.B. 289, 1983

Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years, Etc.): 1st off - 24 hrs - 1 yr; 2nd and Subsequent off (w/n 5 yrs) - 7 dys - 1 yr; 2nd and Subsequent off but offender has no license or because their license was either suspended or revoked - 90 dys - 1 yr; Veh assault (Drunk driving related injury Cl C felony) - Not more than 5 yrs; §§46.61.502,-504, .515, .522

Mandatory Minimum Term: 1st off - 24 cons hrs[1]; 2nd and Subsequent offs (w/n 5 yrs) - 7 dys;[1] 2nd and Subsequent off but offender has no license or because their license was either suspended or revoked - 90 dys

Fine:

Amount ($ Range): 1st off - Not more than $750[2]; 2nd and Subsequent off (w/n 5 yrs) - Not more than $1,500[2]; 2nd and Subsequent DWI off but offender has no license or because their license was either suspended or revoked - Not more than $1,500[2]; Veh assault (Drunk Driving related injury Cl C felony) - Not more than $10,000

---

[1] May be suspended only if jail would impose a risk to defendant's physical or mental well-being.

[2] An additional amount equal to 25% of any fine is paid into a special fund for a statewide alcohol safety program.

STATE - Washington

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Min. Fine ($): 1st off - None; 2nd and Subsequent offs (w/n 5 yrs) - None; 2nd and Subsequent DWI offender but offender has no license because their license was either suspended or revoked - $200; §§ 46.61.502 - 504, and - .515

Other Penalties:
- Community Service: None
- Restitution (eg Victim's Fund): Yes, as an alternative to a fine §§9A.04.04(2) and 9A.20.03 See also §7.68-03
- Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:
- Administrative Per Se Law: Yes 0.10 BAC: 1st incident - Susp for 90 dys (30 dys are mandatory[1]); 2nd incident (w/n 5 yrs) - Rev for 1 yr[2]; 3rd incident (w/n 5 yrs) - Rev for 2 yrs[2]; (§4 of H.B. 289, 1983) (Note: The Admin. Per Se law will become effective January 1, 1986)
- UVC Type of Provisions: N/A
- Other: N/A

Post DWI Conviction Licensing Action:
- Type of Licensing Action (Susp/Rev): 1st off - Susp [3]; 2nd off (w/n 5 yrs) - Rev; 3rd off (w/n 5 yrs) - Rev; Veh Assault - Rev; §§46.04.285, 46.04.480 and 46.61.515(5))
- Term of License Withdrawal (Days, Months, Years, etc.): 1st off - Not less than 90 dys [3]; 2nd off (w/n 5 yrs) - 1 yr; 3rd off (w/n 5 yrs) - 2 yrs; Veh assault - 1 yr; §§46.20.285, 46.04.480 and 46.61.515(5))
- Mandatory Minimum Term of Withdrawal: 1st off - 30 dys [1]; 2nd off (w/n 5 yrs) - 1 yr; 3rd off (w/n 5 yrs) - 2 yrs; Veh Assault - 1 yr

---

[1] A restricted license may be issued under certain conditions after the 30-dy mandatory period; see §46.20.391

[2] Mandatory licensing action

[3] If the defendant is under 19 yrs old, the susp is for 90 dys or until they reach 19 whichever is the longer susp period.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	
Rehabilitation:	
Alcohol Education:	Yes for all offs[1]
Alcohol Treatment:	Yes for all offs[1]
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	No
Veh Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	N/A
Miscellaneous Sanctions Not Included Elsewhere:	N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Offense:	Yes-Cl B Felony (Where death is caused by the operation of a vehicle while under the influence of intoxicating liquor or in a reckless manner.)
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Not more than 10 yrs; §§46.20.285 and 46.61.520
Mandatory Minimum Term:	N/A
Fine ($ Range):	Not more than $20,000 (Under §9A.20.30 restitution may be authorized in lieu of a fine)
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev
Length of Term of Licensing Withdrawal:	2 yrs
Mandatory Action--Minimum Length of License Withdrawal:	2 yrs §46.20.391
Other:	N/A

---

[1] Note: Alcohol education/treatment are required and are in addition to any other criminal/civil sanctions; see §46.61.515.

Other Criminal Actions Related to Alcohol Use and Driving:

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	1st off - 10 dys to 6 mos; 2nd off - 90 dys to 1 yr; 3rd off - 1 yr (Note: See last off listed under DWI sanctions section §§46.20.342 and 46.61.515(2)
Mandatory Minimum Term of Imprisonment:	None
Fine ($ Range):	For all offs - Not more than $500
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp or Rev
Length of Term of License Withdrawal Action:	If off is driving while suspended, an additional susp for a period equal to the original susp period; if the off is driving while revoked, an additional rev period of 1 yr.
Mandatory Term of License Withdrawal Action:	If off is driving while suspended, an additional susp for a period equal to the original susp period; if the off is driving while revoked, an additional rev period of 1 yr[1].
Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes §46.65.020
Grounds for Being Declared an Habitual Offender:	3 serious offs w/n 5 yrs or a combination of 20 minor and/or serious offs w/n 5 yrs provided that 3 minor offs must have been committed w/n the pd. of 360 dys for this alternative to apply.
Term of License Rev While Under Habitual Offender Status:	5 yrs (Special stay of rev if based on DWI offs and person is attending an alcohol treatment program; or after 2 yrs a restricted or unrestricted license may be issued.)

---

[1] A restricted license may be issued under certain conditions.

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	Gross misd
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	Not more than 1 yr; if convicted for DWI and for this off, the penalty is 30 dys to 1 yr and the 30 dy sentence shall not be suspended or deferred.
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	N/A
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	There is no special licensing action for this off.

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes §§46.20.308(1) and 46.52.065
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	21 (Year Eff: 1934) §§66.44.270 and 66.44.290
Minimum Age (Years) Possession:	21 (Exemptions for minors who have been served alcoholic beverages by their parents or guardians and for religious services.)
Minimum Age (Years) Consumption:	21 (Exemptions for minors who have been served alcoholic beverages by their parents or guardians and for religious services.)

Other State Laws Related To Alcohol Use And Driving:

Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No[1]
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	Yes, Halvorson v. Birchfield Boiler, Inc., 458 P.2d 897 (Wa. 1969), Callan v. O'Neil, 578 P.2d 890 (Wa. 1978) and Young v. Caravan, 663 P.2d 834 (Wa. 1983)[2]
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	§§66.04.010, 66.24.010, 66.44.180, 66.44.200 and 66.44.280 repealed)
Term of Imprisonment:	1st off - Not more than 3 mos; 2nd off -Not more than 6 mos; 3rd and subsequent offs - Not more than 1 yr;
Fine ($ Range):	For individuals, 1st off - Not more than $500; For corporations, 1st off - Not more than $5,000; 2nd and subsequent offs - Not more than $10,000 (And/or forfeiture of its corporate license.)
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Susp or Rev
Length of Term of License Withdrawal:	Not specified in the statute
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	None
Term of Imprisonment:	Same penalties apply as to serving alcoholic beverages to intoxicated persons §§66.24.010, 66.44.270, 66.44.320 and 66.44.325
Fine ($ Range):	Same penalties apply as to serving alcoholic beverages to intoxicated persons

---

[1] Note: This state's Dram Shop Law was repealed in 1955; see Ch. 372 of the laws of 1955.

[2] Applies only to the actions of (1) intoxicated minors and/or (2) adults who have lost their will to stop drinking.

STATE - Washington

Other State Laws Related To Alcohol Use And Driving:

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No): Susp and Rev

Length of Term License Withdrawal: Not specified in the statute §§66.24.010, 66.44.180, 66.44.320 and 66.44.325

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): Yes §§66.44.100 and 46.61(2)[1]

Anti-Consumption Law (Yes/No): Yes - Driver and Passengers[2] §§66.44.100 and 46.61(1)[1]

Note: Under sec. 66.44.100, "no person shall open the package containing liquor or consume liquor in a public place;" the law allows for exceptions (e.g. licensed establishments)

---

[1] See sec. 28 of H.B. 289 enacted in 1983; A violation of the open container provisions is a traffic infraction.

[2] Passengers in commercially chartered vehicles are excepted.

STATE: WEST VIRGINIA
General Comments: See West Virginia Code

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): No[1]
Presumption (BAC Level): 0.10% §17C-5-8
Other: 0.10% is *prima facie* evidence of driving under the influence of alcohol §17C-5-8(c)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: Yes §17C-5-5
Implied Consent Law:
  Arrest Required (Yes/No): Yes §17C-5-4
  Other Information: N/A

Other Chemical Tests for BAC Level Which Aré Authorized Under Law (Implied Consent Law):

Blood: Yes 17C-5-4
Urine: Yes 17C-5-4
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): No
Pre-Sentencing Investigation Law (PSI) (Yes/No): N/A

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
  Criminal Sanctions (Fine/Jail): None
  Administrative Licensing Action (Susp/Rev): None
  Other: N/A

---

[1] Note: See Administrative *Per Se* Law below.

STATE - West Virginia

Sanctions Following a Conviction for a DWI Offense:

Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st refusal-Rev for 1 yr (Mandatory); 2nd refusal-Rev for 10 yrs (5 yrs mandatory); 3rd refusal-Rev for life (10 yrs mandatory) §§17C-5-4 17C-5-7
Other:	N/A
Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	DWI not related to death or bodily injury, 1st off - 1 dy[2] to 6 mos; 2nd off-6 mos to 1 yr; 3rd and subsequent offs-1 to 3 yrs; DWI resulting in death where there is reckless disregard of the safety of others[1]-1 to 3 yrs; DWI resulting in death where there is an illegal act or a failure to perform a legal duty, 1st off-90 dys to 1 yr; 2nd off-6 mos to 1 yr; 3rd and Sub offs-1 to 3 yrs; DWI resulting from bodily injury where there is an illegal act or a failure to perform a legal duty, 1st off - 1 dy[2] to 1 yr; 2nd off - 6 mos to 1 yr; 3rd and subsequent offs - 1 to 3 yrs; §17C-5-2
Mandatory Minimum Term:	N/A, see footnote 3 below
Fine:	
Amount ($ Range):	DWI not related to death or bodily injury, 1st off - $100 to 500; 2nd off-$1,000 to 3,000; 3rd and subsequent offs-$3,000 to 5,000; DWI resulting in death where there is reckless disregard of the safety of others[1]- $1,000 - 3,000; DWI resulting in death where there is an illegal act or a failure th perform a legal duty, 1st off- $500-1,000; 2nd off- $1,000-3,000; 3rd and Sub offs- $3,000 to 5,000; DWI resulting from bodily injury where there is an illegal act or a failure to perform a legal duty, 1st off - $200 to 1,000; 2nd off - $1,000 to 3,000; 3rd and subsequent offs - $3,000 to 5,000; §17C-5-2

---

[1] Felony

[2] Actual confinement of not less than 24 hrs.

Sanctions Following a Conviction for a DWI Offense:
(continued)

Mandatory Min. Fine ($):	§17C-5-21(m) provides the above sentences are mandatory and are not subject to either susp or rev.[1]
Other Penalties:	
Community Service:	N/A
Restitution (eg Victim's Fund):	N/A
Other:	N/A
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Basis of action (for instate residents): A BAC of 0.10% or driving while under the influence of alcohol) Admin actions where there is neither death nor a bodily injury: 1st action - 6 mos rev (90 dys are mandatory); 2nd action - 10 yrs rev (5 yrs are mandatory); 3rd action - Rev for life (10 yrs mandatory) §§17C-5A-2 and 17C-5A-3(a), (b) and (c); Admin. actions where there is a death and the driver has also acted in reckless disregard for the safety of others 1st action-10 yrs rev (5 yrs mandatory), 2nd action-Rev for life (10 yrs mandatory). Admin actions where there is a death of a person but no recklessness on the part of the driver: 1st action - 5 yrs rev (2 1/2 yrs mandatory); 2nd action - Rev for life (10 yrs mandatory). Admin actions where there is bodily injury: 1st action - 2 yrs rev (1 yr mandatory); 2nd action - 10 yrs rev (5 yrs mandatory).
UVC Type of Provisions:	N/A
Other:	N/A
Post DWI Conviction Licensing Action:	
Type of Licensing Action (Susp/Rev):	Note: License susp/rev provisions under previous law for in-state residents following a DWI conviction have been replaced by the provisions of the Administrative Per Se Law. DWI conviction for out-of-state residents - rev.

---

[1] Note: Sec. 17C-5-2(m) provides that the above sentences are mandatory and are not subject to either susp or probation; i.e., the minimum imprisonment sanction, it appears, must be served. However, this section does provide that for jail sentences of one (1) yr or less, the provisions of sec. §§62-11A-1 et. seq. may be applied by the Court. In brief, sec. 62-11A-1 provides for a defendant's temporary release from confinement for employment, educational, medical, or family needs/reasons.

STATE - West Virginia

Sanctions Following a Conviction for a DWI Offense:
(continued)

Term of License Withdrawal (Days, Months, Years, etc.): DWI conviction for out-of-state residents - rev for 90 dys

Mandatory Minimum Term of Withdrawal: 90 dys for out-of-state residents

Other:

Rehabilitation:

Alcohol Education: Yes §17C-5A-3 Note: After (1) the period of mandatory rev has elapsed and (2) the driver has successfully completed an approved program of either alcohol/drug education or alcohol/drug treatement: a defendant's license may be reissued with or without conditions.

Alcohol Treatment: Yes see note above

Alcohol Education/Treatment as an Alternative to Criminal Licensing Actions (Describe): Generally no, but there are some alternatives. See 17C-5A-3

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: N/A

Other: N/A

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:

State Has Such Law/Type of Offense: Yes, for details on DWI-death, see DWI sanctions above

Sanctions:

Criminal Sanction:

Imprisonment (Term): See DWI sanctions

Mandatory Minimum Term: See DWI sanctions

Fine ($ Range): See DWI sanctions

Mandatory Minimum Fine: See DWI sanctions

Administrative Licensing Action:

Licensing Authorized and Type of Action: See DWI sanctions

Length of Term of Licensing Withdrawal: See DWI sanctions

Other Criminal Actions Related to Alcohol Use and Driving:

Mandatory Action--Minimum Length of License Withdrawal: See DWI sanctions
Other: N/A

Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:
Sanction:
Criminal:
Imprisonment (Term): 1st off Misd - 48 hrs-6 mos; 2nd off Misd - 6 mos-1 yr; 3rd and subsequent offs Felony - 1-3 yrs (penitentiary) §17B--4-3(b)
Mandatory Minimum Term of Imprisonment: 1st off - 48 hrs; 2nd off - 6 mos; 3rd and subsequent offs - 1 yr
Fine ($ Range): 1st off - $100-500; 2nd off - $1,000-3,000; 3rd and subsequent offs - $3,000-5,000
Mandatory Minimum Fine: 1st off - $100; 2nd off - $1,000; 3rd and subsequent offs - $1,000
Administrative Licensing Actions:
Type of Licensing Action (Susp/Rev): Either Susp or Rev
Length of Term of License Withdrawal Action: If license was originally suspended the license withdrawal period would be equivalent to the original period of susp. If license was revoked, 1 yr extension of the original rev. 17B-4-3(c)
Mandatory Term of License Withdrawal Action: Same as above

Habitual Offender Laws:
State Has Such Law (Yes/No): No
Grounds for Being Declared an Habitual Offender: N/A
Term of License Rev While Under Habitual Offender Status: N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A

Other State Laws Related To Alcohol Use And Driving:

- Sanctions Following a Conviction of Driving While on Habitual Offender Status:
  - Imprisonment (Term): N/A
  - Mandatory Minimum Term of Imprisonment: N/A
  - Fine ($ Range): N/A
  - Mandatory Minimum Fine ($): N/A
  - Licensing Actions (Specify): N/A

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:

- State Has Such a Law (Yes/No): Yes 17C-5B-1
- BAC Chemical Test Is Given to the the Following Persons:
  - Driver: Yes
  - Vehicle Passengers: No
  - Pedestrian: Yes (Adult Pedestrians)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

- Minimum Age (Years) Sale/Purchase: 19 for State residents 21 for out-of-state residents §§11-16-13 & 60-3-22 (yr eff: 1983)
- Minimum Age (Years) Possession: N/A Special Note: Under §§11-16-13(c) & 60-3-22(b), no alcoholic beverages may be sold to any person under the age of 21 unless they display a driver's license/non-operator's identification card issued under §17B-2-8. These provisions, in effect, prohibit a non-resident under the age of 21 from being sold alcoholic beverages since such a person would not normally have such a license/card.
- Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:

- State Has a Dram Shop Law (Yes/No): No
- "Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation No
- Other: N/A

Other State Laws Related To Alcohol Use And Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:	Misd; Note: See generally §§11-16-23(b), 60-7-12(a)(3) & 60-8-20(c)
Term of Imprisonment:	For Wine & Beer - 30 dys-6 mos §§11-16-13(r) & 60-8-25(a) For Liquor - Not more than 1 yr
Fine ($ Range):	For Wine & Beer - $25-500; For Liquor - $100-500

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes, Suspended or revoked
Length of Term of License Withdrawal:	For Wine & Beer - Not specified in the statute §§11-15-16 & 60-8-18 Liquor - 1 yr §60-7-13(a)

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:	For wine & beer - Misd For liquor - Misd (Note: See generally §§11-16-13(b), 60-7-12(a)(3) & 60-8-20(c))
Term of Imprisonment:	For Wine & Beer - 30-dys-6 mos §§11-16-13(r) & 60-8-25(a) For Liquor - Not more than 1 yr
Fine ($ Range):	For Wine & Beer - $25-500; For Liquor - $100-500

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No):	Yes, Susp or Rev
Length of Term License Withdrawal:	For Wine & Beer - Not specified on the statute §§11-16-15 & 60-8-18 For Liquor - 1 yr §60-7-13(a)

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):	No
Anti-Consumption Law (Yes/No):	Yes - Driver and passengers §60-6-9(a)(3)

STATE:	WISCONSIN
General Comments:	See: Wisconsin Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level):	Yes, 0.10% §346:63(1)(b)
Presumption (BAC Level):	No
Other:	A person who has not attained the legal drinking age, may not operate a motor veh with a BAC level of 0.0% up to 0.10%; see §346.63(2m); the only penalty for a violation of §346.63(2m) is a license susp for 3 mos (however, an occupational harship license is available)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law:	Yes §343.303
Implied Consent Law:	
Arrest Required (Yes/No):	Yes
Other Information:	N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood:	Yes
Urine:	Yes
Other:	No

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea Bargaining Statute (Yes/No):	No (Note: However, the Court must approve dismissals of or amendments to DWI charges; see §967.055)
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes §343.305(9)(c)

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:	
Criminal Sanctions (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	None

STATE - Wisconsin

Sanction for Refusal to Submit to a BAC Chemical Test:

Other:	N/A
Refusal to Take Implied Consent Chemical Test	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	1st refusal - 6 mo rev, after 15 dys of the rev period, the driver is eligible for an occupational license; 2nd refusal and/or DWI off conviction w/n 5 yrs - 1 yr rev, after 60 dys of the rev period, the driver is eligible for occupational license; 3rd and subsequent refusal and/or DWI off conviction w/n 5 yrs - 2 yr rev, after 90 dys of rev period, the driver is eligible for an occupational license; §343.305(9)
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	Non-injury related DWI offs 2nd off or (w/n 5 yrs)-5 dys to 6 mos; 3rd and Sub off (w/n 5 yrs) - 30 dys to 1 yr; Injury related DWI offs, Without great bodily harm - 30 dys to 1 yr; With great bodily harm (Cl E felony) - Not more than 2 yrs; §§346.631(1), 346.65(2), and 346.65(3) and 939.50 and 940.25
Mandatory Minimum Term:	N/A
Fine:	
Amount ($ Range):	Non-injury related DWI offs, 1st off- $150 to 300; 2nd DWI off (w/n 5 yrs) - $300 to 1,000; 3rd & Sub. off (w/n 5 yrs)-$600 to 2,000; Injury related DWI offs, Without great bodily harm - $300 to 2,000; With great bodily harm (Cl E felony) - Not more than $10,000
Mandatory Min. Fine ($):	None
Other Penalties:	
Community Service:	No
Restitution (eg Victim's Fund):	Yes The State has a victims compensation fund; this fund is supported in part by a $150 fee imposed on each DWI offender; this fee is an addition to any fine which may also be imposed

Sanctions Following a Conviction for a DWI Offense: (continued)

Special Note: An adult passenger may not receive an award from this fund if they knew the driver they were riding with was intoxicated or had a BAC level of 0.10 or more; see §§949.001 et. seq. and 346.655.

Other: N/A

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action:

Administrative Per Se Law: None

UVC Type of Provisions: None

Other: Referal to licensing agency after two or more DWI arrests; §343.16(2)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev): 1st off - Susp; 2nd and 3rd offs - Rev; DWI injury related offs, w/or w/out great bodily harm - Rev §§343.30(g), 343.31, 343.305, and 346.65[4]

Term of License Withdrawal (Days, Months, Years, etc.): Non-injury related DWI offs; 1st off- Susp 3-6 mos; 2nd off-Rev 6 mos to 1 yr; 3rd off - Rev 1 to 2 yrs; Injury related DWI offs Without great bodily harm - 1 to 2 yrs; With great bodily harm - 2 yrs

Mandatory Minimum Term of Withdrawal: 1st off - see footnote 1; 2nd off - see footnote 2; 3rd off - see footnote 3; Injury related DWI offs Without great bodily harm - 60 dys; With great bodily harm - 120 dys

---

[1] Susp 3 to 6 mos where there has been no previous refusals or DUI type off conviction of any type within 5 yrs; a resticted hardship license may be issued.

[2] Rev 6 mos to 1 yr if there has been one previous refusal and/or DUI type off conviction of any type within 5 yrs; i.e., two refusals/convictions within 5 yrs; a restricted license may be issued after 30 dys.

[3] Rev 1 to 2 yrs if there has been two previous refusals and/or DUI off convictions within 5 yrs; i.e., three refusals/convictions within 5 yrs; a restricted license may be issued after 60 dys.

[4] Note: See S343.30(1P) where a violation of S346.46(2M) by a person under the legal drinking age results in a 3 mo license susp; however, an occupational license is available.

STATE - Wisconsin

Sanctions Following a Conviction for a DWI Offense:
(continued)

Other:	
Rehabilitation:	
Alcohol Education:	Yes
Alcohol Treatment:	Yes
Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe):	Operating privileges shall be suspended if a person does not comply with Court-ordered alcohol/drug assessment (DWI screening), education or treatment program; see §343.30(d)
Vehicle Impoundment/Confiscation:	
Authorized by Specific Statutory Authority:	No
Terms Upon Which Vehicle Will Be Released:	N/A
Other:	Note: Vehicles may be impounded as a result of an operator- owner's failure to post security for an accident; see §344.14 and for a conviction of driving while license is either suspended or revoked; see §343.44(4)
Miscellaneous Sanctions Not Included Elsewhere:	Note; See §343.30(1p) where a violation of §346.63(2m) results in a 3 mo license susp; however, an occupational license is available

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of Off:	Yes--Cl E felony where death is caused by operating a veh with a high degree of negligence; Cl D felony Where death is caused by the operating a veh in an intoxicated condition §§343.10, 343.31, 939.50, 940.08, and 940.09
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	Cl E felony-Not more than 2 yrs; Cl D felony-Not more than 5 yrs; (Wis. Stat. Ann. §§343.10, 343.31, 939.50, 940.08, and 940.09)
Mandatory Minimum Term:	None

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Fine ($ Range): Cl E felony - Not more than $10,000; Cl D felony - Not more than $10,000
Mandatory Minimum Fine: None

Administrative Licensing Action:
Licensing Authorized and Type of Action: For Cl E & D felonies - Rev
Length of Term of Licensing Withdrawal: Cl E felony - 1 yr; Cl D felony - 5 yrs
Mandatory Action--Minimum Length of License Withdrawal: Cl E felony - A restricted license may be issued; Cl D felony - 120 dys; A restricted license may be issued after this period.
Other: N/A

Driving While License Suspended or Revoked Where the Basis Was DWI Offense:
Sanction:
Criminal:
Imprisonment (Term): 1st off-Not more than 6 mos; 2nd off[1]-10 dys to 6 mos; 3rd off-30 dys to 9 mos; 4th off - 60 dys to 1 yr; 5th and subsequent offs-6 mos to 1 yr; (Within 5 yrs) §§343.31 and 343.44
Mandatory Minimum Term of Imprisonment: N/A
Fine ($ Range): 1st off-$150 to 600; 2nd off - $300 to 1,000; 3rd off-$1,000 to 2,000; 4th off- $1,500 to 2,500; 5th and subsequent offs - $2,000 to 2,500 343.31 and 343.44)
Mandatory Minimum Fine: N/A
Administrative Licensing Actions:
Type of Licensing Action (Susp/Rev): Rev
Length of Term of License Withdrawal Action: 6 mos
Mandatory Term of License Withdrawal Action: A mandatory license withdrawal period is not specified; a restricted license could be issued but only if there has been no previous susp or rev for the past yr.

---

[1] Within 5 yrs

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:	
State Has Such Law (Yes/No):	Yes §351.1-.11
Grounds for Being Declared an Habitual Offender:	Four or more serious offs or 12 or more normal moving violations w/n 5 yrs
Term of License Rev While Under Habitual Offender Status:	5 yrs (A hardship license may be issued after 2 yrs of the rev period have passed; see §351.07)
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:	
Imprisonment (Term):	90 dys
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	Up to $1,000
Mandatory Minimum Fine ($):	N/A
Licensing Actions (Specify):	N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:	
State Has Such a Law (Yes/No):	Yes
BAC Chemical Test Is Given to the the Following Persons:	
Driver:	Yes
Vehicle Passengers:	No
Pedestrian:	Yes
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:	
Minimum Age (Years) Sale/Purchase:	19 (Yr eff: 1984) §§125.07(1) & 125.07(4)
Minimum Age (Years) Possession:	19 Applies to either possession or consumption in public places unless accompanied by a parent or guardian §§125.07(1) & 125.07(4)
Minimum Age (Years) Consumption:	19 Applies to either possession or consumption in public places unless accompanied by a parent or guardian

Other State Laws Related To Alcohol Use And Driving: (continued)

Dram Shop Laws and Related Legal Actions:	
State Has a Dram Shop Law (Yes/No):	No (Wis. Stat. Ann. §176.35 repealed)
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation):	Sorenson v. Jarvis, 350 N.W.2d 108 (Wis, 1984)
Other:	N/A
Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
Type of Criminal Action:	Misd §§125.07 and 125.12)
Term of Imprisonment:	Not more than 60 dys
Fine ($ Range):	$100-500
Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Rev
Length of Term of License Withdrawal:	12 Months
Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:	
Type of Criminal Action:	All offs are violations and they are therefore not criminal offs §125.07
Term of Imprisonment:	N/A
Fine ($ Range):	1st off - Not more than $500; 2nd and subsequent offs (w/n 12 mos) - $200-500

Other State Laws Related To Alcohol Use And Driving: (continued)

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcohlic Beverages Withdrawn (Yes/No): Yes for 2nd and subsequent offs; §125.07(1)(b)(2)

Length of Term License Withdrawal: 1st offs - N/A; 2nd offs (w/n 12 mos) - Not more than 3 dys; 3rd offs (w/n 12 mos) - 3 to 10 dys; 4th off (w/n 12 mos) - 15 to 30 dys

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No): Yes §§346.735(2) & (3)

Anti-Consumption Law (Yes/No): Yes - driver and passengers §346.935(1) (Does not apply to a motor bus)

STATE: **WYOMING**
General Comments: See Wyoming Statutes Annotated

Basis for a DWI Charge:

Illegal Per Se Law (BAC Level): N/A
Presumption (BAC Level): N/A
Other: A BAC of 0.10% is admissible as prima facie evidence of intoxication. §31-5-233(b)(iii)

Chemical Breath Tests for BAC Level:

Preliminary Breath Test Law: No
Implied Consent Law:
- Arrest Required (Yes/No): Yes
- Other Information: N/A

Other Chemical Tests for BAC Level Which Are Authorized Under Law (Implied Consent Law):

Blood: Yes
Urine: Yes
Other: N/A

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): No
Anti-Plea Bargaining Statute (Yes/No): Yes §31-5-233(h) A DWI charge may not be reduced or dismissed, unless the State in open court move or files a statement containing supporting facts to indicate that there is insufficient evidence to support the original DWI charge.
Pre-Sentencing Investigation Law (PSI) (Yes/No): No

Sanction for Refusal to Submit to a BAC Chemical Test:

Refusal to Take a Preliminary Breath Test:
- Criminal Sanctions (Fine/Jail): N/A
- Administrative Licensing Action (Susp/Rev): N/A
- Other: N/A

Refusal to Take Implied Consent Chemical Test
- Criminal Sanction (Fine/Jail): None
- Administrative Licensing Action (Susp/Rev): Susp for 30 dys (Mandatory) §31-6-102(c)
- Other: N/A

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years, Etc.):	1st off Misd - Not more than 6 mos; Subsequent offs (w/n 5 yrs) Misd - 7 dys to 6 mos; Serious bodily injury DWI off (§31-5-233(g)), 1st off - Not more than 1 yr; Subsequent offs - Not more than 20 yrs
Mandatory Minimum Term:	Subsequent DWI offs (w/n 5 yrs)-7 dys (see Special Note under Other); §§31-5-233, 31-6-101, and 31-7-127 et seq.
Fine:	
Amount ($ Range):	1st off - Not more than $750; Subsequent offs - $200 to 750; Serious bodily injury DWI off (§31-5-233(g)), 1st off - Not more than $5,000
Mandatory Min. Fine ($):	N/A
Other Penalties:	
Community Service:	N/A
Restitution (eg Victim's Fund)	N/A
Other:	Special Note: Under §31-5-233(F), a defendant may be allowed out of jail long enough to complete actual hrs of employment or education and a reasonable time to travel to and from his place of employment or school (i.e., work/school release program)
Administrative Licensing Actions:	
Pre-DWI Conviction Licensing Action:	
Administrative Per Se Law:	Yes, 0.10% BAC--A person arrested for a DWI off has their license taken by the arresting officer; the officer issues a temporary license to the driver; this temporary license is valid for 7 dys but may be extended for 60 dys by the driver licensing agency; see §§31-5-1205(k) and 31-7-139 Note: The Admin. Per Se Law takes effect April 1, 1985.
UVC Type of Provisions:	No
Other:	N/A

Sanctions Following a Conviction for a DWI Offense:
(continued)

Post DWI Conviction Licensing Action:

Type of Licensing Action (Susp/Rev):	1st off-Susp; 2nd off (w/n 5 yrs)-Susp; 3rd & Sub. offs (w/n 5 yrs)- Rev §31-7-127(d); DWI serious bodily injury offs, 1st and 2nd offs - see comment below; 3rd off - Rev
Term of License Withdrawal (Days, Months, Years, etc.):	1st off - 90 dys; 2nd off (w/n 5 yrs) - 1 yr; 3rd & subsequent offs - 3 yrs; DWI serious bodily injury offs, 1st and 2nd off - See Comment below; 3rd off - 3 yrs
Mandatory Minimum Term of Withdrawal:	1st off - A hardship license may is available; see Rehabilitation; 2nd off (w/n 5 yrs) - 1 yr; 3rd & subsequent offs (w/n 5 yrs) - 5 yrs to 3 yrs; DWI serious bodily injury offs, for 1st and 2nd offs - see Comment below; 3rd off 5 yrs after 4/1/85 - 3 yrs

Comment: There appears to be a possible conflict in the license withdrawl provisions that apply following a conviction for a DWI serious bodily injury off under sec. 31-5-233(g). The provisions are as follows. It seems clear that sec. 31-5-233(g)(iii) requires the State to revoke a person's license following a DWI serious bodily injury off conviction regardless of whether it is a 1st and subsequent off. However, sec. 31-7-127(d), provides for certain license withdrawal actions (as not above) following a conviction for any type of DWI off; i.e., this section does not make a distinction between the types of DWI offs in the Wyoming Code as far as DWI licensing sanctions are concerned. As a result, a conflict occurs for 1st and 2nd serious bodily injury off convictions since sec. 31-5-233(g)(iii) provides for license rev where as sec. 31-7-127(d) provides for license Susp. This potential conflict in the type of licensing action appears to also result in conflicts in the terms of license withdrawal. Generally, under sec. 31-7-130(a), a license can not be revoked for more than 1 yr; i.e., there is no set minimum rev period only a maximum one. Under sec. 31-7-127(d) there are specific or fixed license susp terms (as given above). As a result, for a 1st DWI serious bodily injury off

Sanctions Following a Conviction for a DWI Offense:
(continued)

Comment (continued)
conviction, the State may be able to revoke a license for a period of time of which is more than or less than the fixed susp period. For a 2nd such conviction, a license could be revoked for a period of time that is less than the mandatory one(1) yr susp required following any second (non-injury) alcohol off conviction.

Other:

Rehabilitation:

Alcohol Education: Yes 1. The court may suspend part or all of the discretionary portion of an imprisonment sentence under §31-5-233(d) if the defendant agrees to pursue and completes an alcohol education or treatment program as prescribed by the court; see §31-5-233(d)
2. In order to obtain a hardship license, the defendant must agree to pursue and complete an alcohol education and treatment program as the driver licensing agency prescribes; see §31-7-127(e)(i)

Alcohol Treatment: Yes

Alcohol Education/ Treatment as an Alternative to Criminal Licensing Actions (Describe): Yes, see Alcohol Education above

Vehicle Impoundment/Confiscation:

Authorized by Specific Statutory Authority: No

Terms Upon Which Vehicle Will Be Released: N/A

Other: Upon a 2nd or 3rd DWI/drug driving conviction w/n 2 yrs, a defendant's veh registration shall be suspended for the same period as their license rev/susp 37-7-127(g)

Miscellaneous Sanctions Not Included Elsewhere: N/A

Other Criminal Actions Related to Alcohol Use and Driving:

Homicide by Vehicle:	
State Has Such Law/Type of off:	Yes, two types of offs; 1.) Death caused by operation of a veh in violation of the motor vehs laws regulating traffic control 2.) Aggravated veh homicide if death caused veh DWI §6-2-106
Sanctions:	
Criminal Sanction:	
Imprisonment (Term):	1.) Death by a violation of the motor veh laws - Not more than 1 yr; 2.) Aggravated veh homicide if death caused veh DWI - Not more than 20 yrs
Mandatory Minimum Term:	N/A
Fine ($ Range):	Death caused by a violation of the motor veh laws - Not more than $2,000
Mandatory Minimum Fine:	N/A
Administrative Licensing Action:	
Licensing Authorized and Type of Action:	Rev or susp (§31-7-126(a)(ii) (repealed) but see §31-5-1117)
Length of Term of Licensing Withdrawal:	Not more than 12 mos
Mandatory Action--Minimum Length of License Withdrawal:	Not more than 12 mos
Other:	N/A
Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:	
Sanction:	
Criminal:	
Imprisonment (Term):	Misd - Not more than 6 mos §31-7-135(a)
Mandatory Minimum Term of Imprisonment:	N/A
Fine ($ Range):	Not more than $750
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Susp or rev
Length of Term of License Withdrawal Action:	The original susp or rev period is extended 1 yr §31-7-135(b)
Mandatory Term of License Withdrawal Action:	The original susp or rev period is extended 1 yr §31-7-135(b)

STATE - Wyoming

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Habitual Offender Laws:
State Has Such Law (Yes/No): No
Grounds for Being Declared an Habitual Offender: N/A

Term of License Rev While Under Habitual Offender Status: N/A
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status N/A
Sanctions Following a Conviction of Driving While on Habitual Offender Status:
Imprisonment (Term): N/A
Mandatory Minimum Term of Imprisonment: N/A
Fine ($ Range): N/A
Mandatory Minimum Fine ($): N/A
Licensing Actions (Specify): N/A

Other State Laws Related To Alcohol Use And Driving:

Laws Requiring BAC Chemical Tests on Those Persons Killed in Fatal Traffic Crashes:
State Has Such a Law (Yes/No): Yes 20 §4935
BAC Chemical Test Is Given to the the Following Persons:
Driver: Yes
Vehicle Passengers: No
Pedestrian: No
Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:
Minimum Age (Years) Sale/Purchase: 19 §12-6-10(b) (yr eff: 1983)
Minimum Age (Years) Possession: 19 Applies to possession in a public place; there are exemptions for either employment or by order of a parent §12-6-10(b)
Minimum Age (Years) Consumption: N/A

Dram Shop Laws and Related Legal Actions:
State Has a Dram Shop Law (Yes/No): No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the Case (Case Citation): Yes, McClellan v. Tottenhoff, 666 P. 2d. 408 (Wyo. 1983)
Other: N/A

Other Criminal Actions Related to Alcohol Use and Driving: (continued)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
Type of Criminal Action: **None** Note: §12-5-501 repealed
Term of Imprisonment: N/A
Fine ($ Range): N/A

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): N/A
Length of Term of License Withdrawal: N/A

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: Misd §§12-6-101, and 12-7-102)
Term of Imprisonment: Not more than 6 mos
Fine ($ Range): Not more than $100

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
License to Serve Alcohlic Beverages Withdrawn (Yes/No): Susp or rev where there is gross violation of the law
Length of Term License Withdrawal: A susp is not to exceed the balance of the term for which the license was issued; as for rev, no time period is specified in the statute.

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
Open Container Law (Yes/No): No
Anti-Consumption Law (Yes/No): No

APPENDIX

ABBREVIATIONS

cl = class
cons = consecutive
dy = day
dys = days
hr = hour
hrs = hours
misd = misdemeanor
mo = month
mos = months
N/A = not applicable
off = offense
offs = offenses
rev = revocation
susp = suspension
UVC = Uniform Vehicle Code
veh = vehicle
w/n = within
yr = year
yrs = years

☆ U.S. GOVERNMENT PRINTING OFFICE: 1985—461-816/20107